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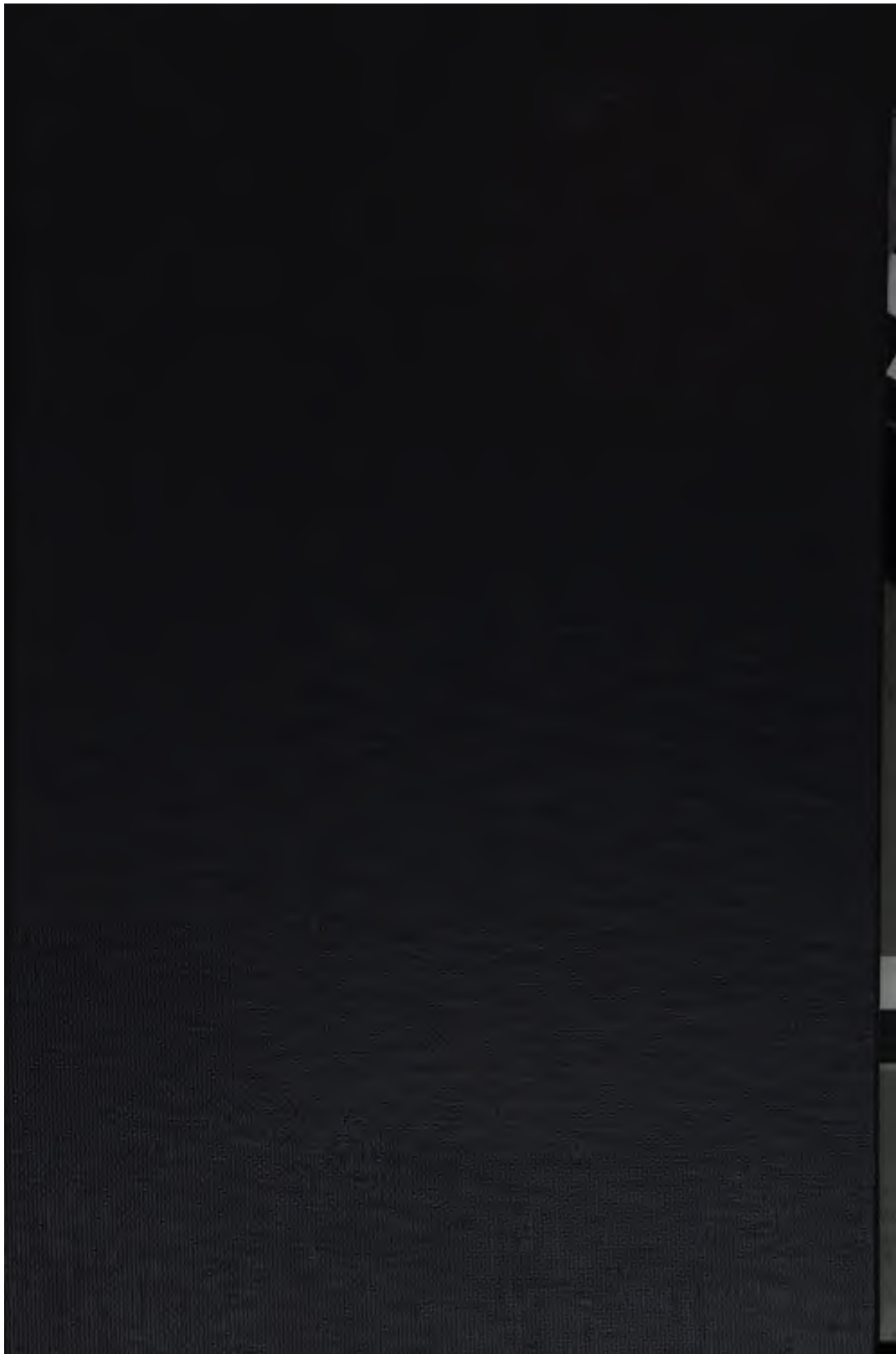
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Mr. R. White
with the regard
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~~W. Benton~~
— April 23 1909 —

**The Story of the
Old Boston Town House**

The Story of the
Old Boston Town House
1658-1711

BY
JOSIAH HENRY BENTON, LL.D.

AUTHOR OF "SAMUEL SLADE BENTON: HIS ANCESTORS AND DESCENDANTS"
"A NOTABLE LIBEL CASE," "EARLY CENSUS-MAKING
IN MASSACHUSETTS, 1648-1705," &c.

With Portraits and Illustrations



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Introduction

THE first important building for secular purposes in New England was the Boston Town House, built in 1658, at the head of State Street, where the present Old State House now stands. This Town House was destroyed in the great fire of 1711. The interest which properly attaches to the history of the present building, constructed the year after the fire, has obscured the more important history of the original building. It may therefore be of value to those who love the memory of the olden time, when civil government in New England was getting under way, to give the story of the ancient edifice, which was for so long the centre of the civil and political life of the town and colony, and to review some of the events which occurred in it and about it.

No building in America has a history more interesting or instructive to the student of free government than the Boston Town House. Within its wooden walls American independence was born. It was the cradle of representative government in the New World, and a separation of executive, legislative, and judicial powers was developed by the contests waged in and about it. Here freedom of religious worship was first recognized in Massachusetts, and freedom of speech and of the press, though at first denied, finally prevailed. The Boston Town House was the seat of government of the Colony under the original Colony Charter, from 1659 to 1684; of the government of the "Province of New England" under the royal authority, from 1684 until

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1689; of the government by the people, under the name of the "Council of Safety and Conservation of the Peace," from 1689 until the establishment of the "Province of the Massachusetts Bay in New England," under the Royal Charter of 1691, and then under this Charter until 1711. The accomplished Bellingham, the bigoted Endicott, the passionate Phips, the brave and popular Leverett, the wise and conservative Bradstreet, the tyrannical Andros, the amiable Bellomont, and the crafty and selfish Dudley, all sat as governors in the council chamber of the Town House. It was here that Andros was proclaimed "Governor of New England" in 1686, and here he concentrated all executive, legislative, and judicial power in his own hands for nearly three years, until his arbitrary rule was broken by the revolt of the people and he was driven from the Colony, never to return. Here Dudley disgraced the judicial ermine as chief justice, and when the colonists claimed their rights under Magna Charta told them they must not expect the laws of England would follow them to the ends of the earth. Here, upon the uprising of the people in 1689, Dudley was brought and guarded by armed men until he was imprisoned in the castle to protect him from the fury of the people; and here, in 1702, by a strange turn of fortune, he again came into power and was proclaimed as "President of Massachusetts, New Hampshire, Main, and the Narragansett country, or King's Province."

The Town House was for more than half a century the centre of the public affairs of the town and of the Colony. The laws of the Colony were there published,

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and the regulations of the town were there posted. Distances were measured from it, and those liable to military duty were summoned to assemble at it. Public meetings of humiliation and prayer and festivities were held in it. It was illuminated and decorated for victories, and darkened and draped for defeat. It was here that royal proclamations were read, and here the people met to protest against the tyranny of the royal governors and the oppression of the Crown. The stocks, the whipping-post, the prison, and the gallows stood close by, and the sentences pronounced by the courts within the Town House were executed under its walls.

In this building the pulse of the people beat, and it became saturated and vibrant with the spirit of the time. Its story is the story of what was done in and about it,—the story of the time,—and is best told in the language of the records of the time. No modern phrases can bring to our minds the conditions of that olden time as effectively as the quaint and simple language of the records which were then written. The most important of these are the records of the selectmen and of the meetings of the inhabitants of the town, and the records of the General Court and other courts of the Colony. During the period from 1674 until 1711 these are supplemented by the inimitable diary of the New England Pepys, Samuel Sewall.

The process by which the people of Boston and of the Colony, having in the beginning no written laws and no established rules of conduct and of government, slowly created day by day and year by year, as the necessities of their conditions required, an orderly

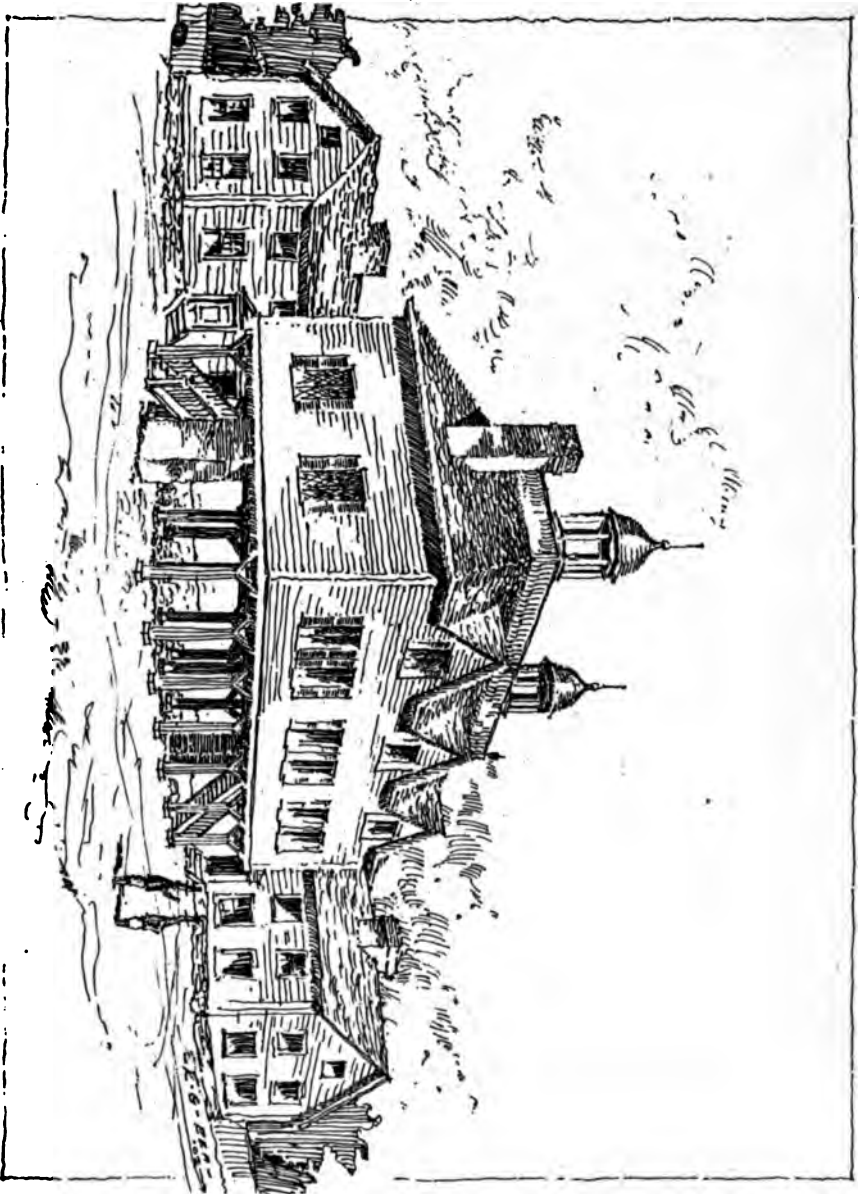
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and efficient town and colony government is a most interesting social and political study. For such a study, the story of the Old Boston Town House makes an excellent nucleus. Some of the details of its construction and uses may perhaps seem uninteresting; but as they have historical value, they have been given place here. The location of the streets and of the houses of the prominent citizens, the market, the church, the jail, the meeting-places for the various official bodies, the customs of the colony in respect to trade, to the punishment of crime, to education, and to the worship of God are all to be found in the records of those early years.

"The Puritan can well afford to be painted as he was."

H. W. FOOTE

**The Story of the
Old Boston Town House**



*Boston Town House
Built 1657*

Conditions in Town and Colony before the Town House was Built

WHEN, in 1630, the first settlers of Boston came from Charlestown across the Mystic River to the peninsula then known as "Tri-mountain," most of them settled in the territory now included within Milk, Bromfield, Tremont and Han-over streets and the sea. The two principal streets were those now known as State Street and Washington Street. State Street was called indifferently "the Water Street," "the Market Street," or "the Great Street;" it began at the sea, at about the present location of Exchange Street, and ran to Washington Street, then called "the Corn-Hill," "the High Street," or "the Road to Roxbury." Extending west from the Corn-Hill, at the head of the Great Street, was Prison Lane, twelve feet wide, leading to the prison where the Old Court House in Court Square now stands. This lane was afterwards widened twenty-five feet and called "Queen Street," and is now Court Street. At the south corner of Prison Lane and the Corn-Hill was the house of Samuel Cole, and opposite on the north corner of the Lane and the Corn-Hill was the house of Thomas Fairweather. On the south corner of the Corn-Hill and the Great Street was the house of Thomas Matson, and on the opposite corner were the house and land of the Rev. John Wilson, pastor of the First Church.

The notable spot of the town was the junction of the Great Street and the Corn-Hill. The Great Street was there 113 feet wide, and continued substantially of

The Story of the

this width for 150 to 200 feet easterly, toward the sea. Within this large space was the market-place, where agricultural products and articles of barter and trade were brought and placed on the ground, while sellers and buyers moved about among the wares without shelter from the weather. The importance of this market-place in the life of the town is curiously illustrated by the history of the choice of location for the second meeting-house, which was built in 1640. The first meeting-house was built in 1632, and was just below the site of the market-place on the south side of the Great Street, nearly on the spot where the present Brazer Building stands. This structure was occupied not only for worship, but for all the public secular business of the town and of the Colony, until 1639; when, being "decayed and too small," it was sold and a new meeting-house was built on the west side of the Corn-Hill, on the site of the present Rogers Building. This location was chosen in preference to the one where the Old South Meeting House now stands, because the tradesmen who dwelt about the market-place desired the meeting-house to be placed near the market, so that the chief trade of the town should not be diverted from it.

The junction of these two streets was the place where the first saw-pit for cutting lumber by hand was located. On October 17, 1636, the selectmen ordered that "all the timber in the markt place shalbe taken away before the next meeting day, which is to be on the 1 day of the next moneth, upon the forfeiture of such timber as shalbe there then found, and that noe more timber shalbe thither brought upon the forfeiture thereof, and

Old Boston Town House

the markett place to be gotten cleane and cleare dressed by that time by William Brenton and John Sampford, upon their forfeiture of x.s. in default thereof, and the sawe pitte gotten filled."

This shows that the use of the market-place for a market had then become so important that it could not any longer be occupied for other purposes, and its use continued to be thus restricted until the construction of the Town House in it, in 1658.

It was about this market-place, and the old Town House, that the little Puritan settlement grew to be the most important municipality in the Massachusetts Bay Colony and in New England. The colonists combined in a characteristic fashion their commercial and religious observances. In March, 1633-4, the General Court "ordered that there shall be a market kept at Boston upon every Thursday, the fifth day of the week." This was the famous "Lecture Day," on which vigorous week-day instruction supplemented the Sunday preaching. Lechford says: "Upon the weekdays there are lectures in divers towns and in Boston upon Thursdays, when Master Cotton teaches out of the Revelation."

Gathered about meeting-house and market-place were the dwellings of the men of light and leading in the young colony. In 1645 Governor John Leverett lived at the corner of Prison Lane and the Corn-Hill; Robert Keayne at the south corner of the Corn-Hill and the market-place, in the Great Street; the Rev. John Wilson on the opposite side of the market-place and the east side of the Corn-Hill; and Thomas Buttolph

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on the west side of the Corn-Hill, at the corner of Prison Lane. John Cogan had a house and shop on the north corner of the market-place and the Corn-Hill; John Dunster is named in the Book of Possessions as the owner of the lot on the site of the present Ames Building, but recent research shows that it belonged to the Rev. Joseph Glover, whose widow Dunster married in 1641.

There is no record of the laying out of these streets or of any of the earliest streets of Boston. Their boundaries were fixed by the construction of the rude dwellings of the early settlers on either side, and were subsequently confirmed by law.*

The first houses were constructed of logs or of rough stones, the crevices stopped with mud, and had thatched roofs and chimneys of sticks plastered with clay. It is said that when Deputy Governor Dudley built his house at Newtowne, in 1632, Governor Winthrop reproved him for his showy extravagance because he covered the walls with clapboards.

Thus closely grouped about the two centres of their common life, the market-place and the meeting-house, and thus simply housed, the colonists began to work out their ideal of a God-fearing government. Their earliest actions are significant and worthy the most careful study. The people were so few that at first they met together in what they called "General Meetings," and ordered their affairs by their general action. These meetings appear by the record to have been usually warned

* See Sec. 2, Act July 6, 1734-5, Province Laws, ii. 711, as to boundaries of ancient ways where buildings or fences had been maintained against them for more than forty years.

Old Boston Town House

by public notice "from house to house," and sometimes to have been "privately warned." In a short time, however, they began to choose certain of their number, usually nine, "to manage the prudential affairs of the town." These were chosen for the term of only six months, and at first were called "Townsmen," then "Select 'Townsmen," and finally simply "Selectmen." This office was deemed very important and was held by the most eminent persons. Governor Winthrop was for a long time not only governor of the Colony, but also a selectman of the town.

The townsmen or selectmen were not paid for their services, but their food was provided at the town cost. In 1641 an order was made "that the Constables shall Pay unto Robert Turner for diet for the Townsmen £2-18 s^h."

The first settlers called each other brothers and sisters, and these titles were not only used in private intercourse, but are often found in grants of land; that is, a grant would be made to "our Brother——" or to "our Sister——." They permitted no one to become an inhabitant without the consent of the town, and prohibited the entertainment of strangers for more than fourteen days without the permission of the selectmen. They regulated the use of the common lands, required the fencing of cultivated lands, and appointed scavengers or persons to keep the shores and the waters free from impurities and obstructions. One of their first public acts was to set up a whipping-post in the marketplace. As early as March, 1639, it was ordered that notices of stray swine be set up "on the Whipping Poast."

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They permitted no person to open a shop or to follow any trade without permission of the town or the selectmen. They established a free school, assessed taxes to be paid in corn, rye and wheat, and fixed the prices. In 1641 Indian corn was valued at three shillings a bushel, rye at three shillings fourpence, and wheat at four shillings a bushel.

They erected fortifications for the protection of the town, regulated the depth of graves for the burial of the dead, and forbade the sale of any land or houses without notice to the selectmen. They paid four pounds a year for ringing a bell at nine o'clock at night and half-past four in the morning, and in 1650 they set up a town clock. They fined persons ten shillings whose chimneys were permitted to be on fire so as to flame out of the top, prohibited playing football in the streets, keeping sheep or swine upon the Common, and provided measures of brass as standards for the town. They admitted Inhabitants, Townsmen, and Freemen; women were admitted as Inhabitants, and Townsmen were admitted only to action in town affairs, while Freemen, who were required to be members of the church, alone voted for Deputies to the General Court, and in 1658 it was ordered that "the times of meeting for the Freemen should be distinct from the general townes meetings."

Such, in general, were the condition and the conduct of town affairs at the time the Town House was constructed. In the same way, out of the necessities which arose from time to time, the colony government under the Charter had grown up. This government existed

Old Boston Town House

under letters patent from Charles I, granted March 4, 1628-9, a date corresponding to March 15, 1628, in the computation of time adopted in 1752 as "New Style." This grant was sometimes called "the Patent," and sometimes "the Charter" of the Colony. It constituted Sir Henry Rosewell, Richard Saltonstall, John Endicott, and others, with such as should thereafter be admitted and "made free of the Company," "one body corporate and politique in fact and name, by the name of the Governor and Company of the Massachusetts Bay in Newe England," granted to them the lands of New England, and required the government of the Colony to be by a governor, deputy governor, and eighteen assistants of the company to be chosen out of the freemen of the company.

A study of the records of colonial procedure shows a singular mingling of contradictory tendencies. With the claim for unrestricted liberty, there was combined the most detailed supervision of personal conduct. A selection of a few of the typical acts of the colonists will throw light on the character of the people who were living in and about Boston and for the convenience of whom the Town House was built. At the first meeting of the assistants in the Colony, August, 23, 1630, provision was first made for the maintenance of the ministers, then a beadle was provided "to attend upon the Governor and always to be ready to execute his commands in public business," and then the governor, deputy governor and three other persons were made justices of the peace, to have the same power that justices of the peace had in England. At the same meeting

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it was ordered "that carpenters, joyners, bricklayers, sawers and thatchers shall not take about two shillings a day, nor any man shall give more, vnder paine of ten shillings to taker and giuer."

At the next meeting Boston, Dorchester and Watertown were given their names as towns, and it was ordered that "no persons should plant" (settle) in any place within the limits of the patent without leave of the governor and assistants. In September, 1630, servants were forbidden to trade in any commodity; constables were chosen; a seizure of "strong water" was ordered, because the owner had sold great quantities thereof and produced disorder, drunkenness, &c.; wages of mechanics were still further regulated; two persons were ordered to be whipped, and two to be set in the stocks; a colony tax was levied upon the different towns, and coroners' inquests were had with verdicts of juries. In October, "for the establishing of the government," it was voted that the freemen should choose assistants and the assistants should choose from themselves a governor and deputy governor, who with the assistants should have power of making laws and choosing officers to execute them. In November a jury of twelve was impanelled, and Walter Palmer was tried for manslaughter and acquitted; Sir Richard Saltonstall was fined £5 for whipping two persons without the presence of another assistant; Bartholomew Hill was adjudged to be whipped for stealing a loaf of bread, and John Baker to be whipped for "shooteing att fowle on the Sabbath day." At a Court in March, 1631, a constable was fined for an attempt to solemnize marriage between two

Old Boston Town House

persons; trading money to the Indians was prohibited; and one Knopp was fined £5 for "taking upon him to cure the scurvy by water of no worth, which he sold at a very dear rate;" one Thomas Foxe was whipped for uttering scandalous speeches concerning the Court; and it was provided that whenever the number of assistants should be fewer than nine, it should be lawful for the major part of them to keep a court. In the same month it was ordered that all persons having "cards or dice or tables" (evidently gaming-tables) in their houses should make way with them under pain of punishment; the restriction upon the wages of carpenters, joiners, &c., was removed; and three men were ordered to be whipped for stealing pigs.

On May 18, 1681, at a Court of Assistants, when there were present only the governor and deputy governor and five assistants, it was "Ordered and agreed that for time to come noe man shalbe admitted to the freedom of this body polliticke, but such as are members of some of the churches within the lymitts of the same."

This fundamental order, made at a meeting of only seven out of the eighteen assistants required by the charter,—the least number that could lawfully act,—put the Colony government into the absolute control of the Puritan Church. This Court then authorized a ferry to Charlestown, fixed the rates of ferriage, ordered standards of weights and measures, and forbade the killing of wild swine.

In June, 1681, the Court provided that no person should be hired for a servant for less time than a year,

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and that no person whatsoever should travel out of the Colony, either by land or by sea, without leave from the governor, deputy governor, or some other assistant; ordered a servant to be whipped for running away from his master; ordered Philip Ratliffe to be whipped and have his ears cut off for scandalous speeches against the Church; and rendered a judgment between two parties upon an agreement. In September, 1631, they ordered that "sawers shall not take about 12^d a scoore for boards, if they have their wood felled and squared for them, and not about 7^s the hundred, after 5 scoore to the hundred, if they fell & square their wood themselves." In October, 1631, they ordered that adultery should be punished with death; that corn should pass for payment of all debts at the usual rate it was sold for, unless money or beaver skins were expressly named; and levied a tax upon the different towns for the "making of a pallysadoe aboute the newe towne."

In October, 1632, they ordered that, "Noe pson shall take any tobacco publicquely, vnder paine of punishm^t; also that eūy one shall pay j^d for euey time hee is convicted for takeing tobacco in any place, & that any Assistant shall haue power to receave evidence & giue order for the levyeing of it, as also to giue order for the levyeing of the officers charge."

They then ordered that a house of correction and a house for the beadle should be built at Boston; that James Woodward should be whipped for running away from his master, and that the town of Saugus should have liberty to build a "ware upon Saugus Ryver." They also provided regulations for the training of

Old Boston Town House

troops, and fines for being absent from training; fixed boundaries between towns; assessed a colony tax; granted "Noddles Ileland to M^r Sam^l Maüacke" upon the annual rent of "either a fatt weather, a fatt hogg, or xl^s in money;" and gave leave to Boston and Charlestown to fetch wood from the southern part of the island.

At a meeting, April 1, 1633, they repealed the regulation of the price of corn to six shillings the bushel; granted fifty acres of land to William Blackstone near his house, which was on the west slope of Beacon Hill; fined a woman twenty shillings for breach of promise of marriage; punished John Sayles for stealing corn and fish, and bound him out as a servant for three years, at £4 the year, to Mr. Coxeshall, and also bound his daughter out to Mr. Coxeshall for fourteen years, he to have "a sowe with her, & att the end of her time hee is to giue vnto her a cowe calfe." They then forbade the sale of intoxicating liquors without leave from the governor or deputy governor; provided for the keeping up of fences against cultivated lands; for the inventory and settlement of the estates of deceased persons, and for the validity of transfers of bills of exchange.

In October, 1633, they again provided that "master carpenters, tylars, bricke-layers, mowers," and other artificers should not take above two shillings a day, and not above fourteen pence a day if they had "dyett found them," and also that all other inferior workmen of said occupations should have such wages as the constable of the place and two other inhabitants chosen by him

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should appoint. They also ordered that the best sort of labourers should not “take above 18^d a day if they dyett themselves,” and not above eightpence a day if they “had dyett found them,” and that “master taylours should not take above 12^d a day, and other taylours not above 8^d a day, if they be dyeted.” And they finally ordered that “all workemen shall worke the whole day, alloweing convenient tyme for foode & rest;” and ordered that no person should spend his time idly or unprofitably under pain of such punishment as the Court should think meet to inflict. But in November, 1633, they made an order reciting that whereas the wages of workmen had been reduced to a certainty, therefore lest workmen should be wronged by the excessive prices of commodities necessary for their life and comfort, no person should sell any provision, clothing, tools or other commodities above the rate of fourpence to the shilling more than the same cost or might be bought for ready money in England except cheese, wine, oil, vinegar and strong waters, which might be sold “at such rates (provided the same be moderate)” as the buyer and seller could agree. They also provided that “for lynnens & other comodities, w^{ch}, in regard of their close stowage & small hazard, may be afforded att a cheap rate, wee doe advise all men to be a rule to themselves, in keepinge a good conscience, assuring them that, if any man shall exceede the bounds of moderation, wee shall punish them seuerely.”

Finding that lectures, which were ordinarily held in the forenoon, were “prejudicial to the common good in the loss of a whole day &c.,” they ordered that there-

Old Boston Town House

after no lecture should begin before one o'clock in the afternoon.

On April 1, 1634, the Court ordered that any land not improved in three years should be free to be disposed of by the Colony; that John Lee should be whipped and fined for calling Mr. Ludlowe, one of the assistants, a "false-hearted knave &c.;" provided that every person above the age of twenty years who resided in the Colony for six months and was not enfranchised, that is, made a freeman, should take the oath of an inhabitant in a form prescribed, or be banished; and also provided for the survey of houses, corn-fields, and improved lands, to be entered in a book, the same to be an assurance of the title thereto.

At a General Court, May 14, 1634, it was "agreed and ordered" that none but the General Court hath power to choose and admit freemen, make and establish laws, elect, appoint, and remove officers, or "to rayse monies & taxes, and to dispose of lands." At this meeting they instituted representative government by providing that the freemen of each town might "depute" persons "to deale in their behalfe, in y^e publique affayres of the co^monwealth, who shall haue the full power & voyces of all the said ffreemen, deryved to them for the makeing & establishing of lawes, graunting of lands, e^c. & to deale in all other affaires of the co^monwealth wherein the ffreemen haue to doe, the matter of elec^con of magistrates & other officers onely excepted, wherein e^uy freeman is to gyve his own voyce."

They also granted leave to the inhabitants of Newe Towne (now Cambridge) to seek out some convenient

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place for them to remove their habitations, &c. ; took the recognizance of a witness in a criminal case in the sum of £200, and fixed a basis of rates and public charges, requiring the towns to “haue respect to levy eūy man according to his estate, & with consideraċon of all other his abilityes, whatsoeuer, & not according to the number of his psons,” thus making the basis of taxation the ability to pay.

At a Court held September 8, 1684, they provided for the fortification of Castle Island, for the arming and training of troops, regulated the charges of keepers of inns, provided that keepers of inns and ordinaries should not suffer tobacco to be taken in their houses, and that no person should take tobacco, publicly or privately, in his own house or in the house of another before strangers, and that two or more should not take it together anywhere. They then passed the following order as to clothing:

The Court, takeing into consideraċon the greate, supfluous, & vnecessary expences occaċoned by reason of some newe & immodest fashions, as also the ordinary weareing of silver, golde, & silke laces, girdles, hatbands, ec, hath therefore ordered that noe pson, either man or woman, shall hereafter make or buy any ap-
pell, either wollen, silke, or lynnē, with any lace on it, siluer, golde, silke, or threed, vnder the penalty of forfecture of such clothes, ec. /

Also, that noe pson, either man or woman, shall make or buy any slashed clothes, other then one slashe in each sleeue, and another in the backe; also, all cuttworks, imbroidered or needle worke capps, bands, & rayles, are forbidden hereafter to be made & worne, vnder the aforesaid penalty; also, all golde or silver girdles, hattbands, belts, ruffs, beav^r hatts, are prohibited to be bought & worne hereafter, vnder the aforesaid penalty, ec./...

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provided & it is the meaneing of the Court that men & women shall haue liberty to weare out such appell as they are nowe provided of, (except the imoderate greate sleecues, slashed appell, imoderate greate rayles, longe wings, &c;) this order to take place a fortnight after the publishing thereof./

After this they appointed a day of public humiliation; levied a colony tax upon the different towns; provided for an entry fee in actions brought in the Court of Assistants; and received the account of John Winthrop, Governor, of his receipts and disbursements for public affairs.

At the General Court in March, 1685, they ordered that no person should buy or sell tobacco "after the last of September next" under a penalty of ten shillings a pound, and that in the meantime no person should buy or sell tobacco at a higher price than it should be valued at by the governor for the time being, and two others whom he might choose, under the same penalty. They ordered a beacon set on the sentry hill in Boston to give notice of any danger, to be in the ward of one person, to be kept there until the last of September, the beacon to be fired upon the discovery of any danger, and the alarm given; and also ordered that farthings should not pass for current pay, but that "musket bullets of a full boare" should pass currently for a farthing, but that no man be compelled to take above twelvecence at a time in this pay.

At this Court they appointed a committee of military affairs, giving them, practically, power to declare and enforce martial law, their power to continue until the end of the next General Court, and provided

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that the rent of Governor's Island, which had been granted to John Winthrop at a rental of one-fifth part of the fruit that should grow there, should be (at the request of John Winthrop, Esq.,) "a hogshead of the best wyne that shall grow there, to be paide yearely, after the death of the said John Winthrop, and noe-thing before." The same Court, upon complaint that divers persons did usually absent themselves from church meetings upon the Lord's Day, gave power to any two of the assistants to hear and censure, either by fine or imprisonment, at their discretion, all misdemeanours of that kind, provided the fine should not exceed five shillings for one offence; ordered that no person should keep a common victualling-house without licence; that merchantable beaver should pass at ten shillings the pound, and that rates might be paid in merchantable corn at five shillings a bushel.

They also authorized the Court of Assistants to lay out and alter highways; provided for the construction of a bridge over Muddy River; prohibited the purchase of the commodities of any ship without licence from the governor under penalty of confiscation; and ordered that the "charges of dyett for the Governor, Deputy Governor, Assistants and Deputies, during the time of every court," as well as "the dyett of Commissioners for martial discipline," should be paid out of the treasury; and further ordered that "Att eūy Geñall Court there shalbe sixe men appoynced by the Goūn^r for the tyme being, out of the towne where hee lyves, to attend, with halberds & swords, vpon the pson of the Goūn^r, & the rest of the members of the

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Court, dureing the space of the first day of eūy Geñall Court, & that there shalbe two men appoynted by the Goūn^r to attend, in like mann^r, att eūy p̄ticular Court, att the publique charge." And having ordered two grand juries to be summoned, one in March and the other in September, and "intreated the elders and brethren of the churches to consult and advise of one vni-forme order of dissipline in the churches, agreeable to the Scriptures," the Court adjourned.

At the Court in May, 1635, the power of the commissioners of military affairs was extended; provision was made for the preparation of a draft of laws; permission was given to several persons to transport limited amounts of corn out of the jurisdiction; and it was ordered that no pigs should be kept for a longer time than a month between the last of July and the first of January; that no corn should be given to any swine between the last of July and the first of January, except corn brought from other parts, and refuse corn of the country; and that every town should provide standards of weight and measure, and a "meat yard," all to be made by the standard at Boston and sealed by the marshal. In August, the Court of Assistants entertained and decided certain complaints against persons for taking excessive wages, Mr. Cogan witnessing upon oath that James Hawkins took two shillings sixpence a day from him for fourteen days. They also made an order for the arbitration of a dispute about two heifers, giving the arbitrators power to examine witnesses upon oath; and allowed the will of John Russell.

At a General Court in September, 1635, it was or-

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dered that no dwelling should thereafter be built above half a mile from the meeting-house in any new plantation; that it should be lawful for magistrates—or constables and two of the chief inhabitants, where there was no magistrate—to press men and boats at the public charge, to pursue and bring back any servants who should run from their masters; and provided that swine impounded should be cried at the next two lectures, and if they were not owned within three days, should be sold. At the same Court they provided that the grand jury should “have their charges of dyett allowed them out of the treasury,” and the petty jury should have three shillings allowed them for every trial they passed upon, “to be payde by him that recouers the suyte;” passed further laws regulating the wages of workmen and the prices of commodities; banished Roger Williams on account of his “newe & dangerous opinions;” and ordered that none but freemen should have any vote in any town in “any matter of authority or necessity.”

On October 6, 1685, the Court of Assistants fined a man for contempt of court; ordered separate maintenance of a married woman, with an allowance of twenty pounds to be paid to her quarterly by her husband, “as also a bedd with furniture to it;” and fined a man for selling knives and a scythe at a profit of above fourpence in a shilling.

They regulated the charges of millers for grinding corn; provided that no church should be gathered in the Colony without the approval of the General Court and that it would not approve thereof without the magistrates and elders of the greater part of the churches

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also approved it; and to make this order effective they provided that no member of any church which should thereafter be established without such approbation should be admitted to be a freeman.

They then established quarterly courts to be kept by the magistrates at Ipswich, Saleme, Newe Towne and Boston, which courts should try all civil cases where the debt or damage should not exceed ten pounds, and all criminal cases "not concerning life, member, or banishment;" and provided for an appeal from any of these courts to the next General Court, but said that all such as should bring "any appeale without iust cause should be exemplayly punished." Then they provided for "foure greate Quarter Courts" yearly at Boston by the governor and the rest of the magistrates, to be held "the first, the first Tuesday in the 4th moneth, called June; the second, the first Tuesday in Septemb^r; the third, the first Tuesday in Decemb^r; the fourth, the first Tuesday in the 1th monethe, called Marche." They also provided that all actions should be tried in the jurisdiction where the defendant lived; and provided that there should be thereafter only two General Courts, one in May for elections and other affairs, the other in October for making laws and other "public occasions of the Commonwealth;" and that no law, order or sentence of the General Court should be valid without the consent of the majority of the magistrates on the one part, and of the majority of the deputies on the other part, thus, for the first time, making the representatives of the people a check upon the power of the magistrates.

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At the same Court they authorized "the ffreemen of eūy towne, or the major p̄te of them, to dispose of their owne lands, & woods, & make such orders as may concerne the well ordering of their owne townes, not repugnant to the lawes & orders here established by the Geñall Court," and also to choose their own officers, as constables, surveyors, &c.

In September, 1636, it was ordered that towns that had above ten freemen resident therein and under twenty might send one deputy to the General Court; those having between twenty and forty freemen, two; and those that had above forty, three; and that no town that had not ten freemen resident in it should send any deputy to the General Court. At the same session they passed an order forbidding the use of lace except binding or small edging laces, under penalty to the person wearing it and to the tailor setting it upon any garment; authorized the freemen of the towns to fix prices and rates of wages for workmen, labourers and servants; and provided for raising four hundred pounds "towards a schole or colledge."

At the General Court in December, 1636, they established a tariff duty on imported articles by an order that after three months every person who should buy or receive any fruit, spice, sugar, wine, strong water or tobacco, brought from beyond the seas with intent to retail the same commodities, should pay a duty of one-third part of the value or price thereof, and provided for an officer to survey all vessels, and make search in all warehouses, for the discovery of such articles and for the forfeiture thereof if the duty

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was not paid. This order had the following peculiar proviso: "Provided, that this order shall not extend to such wine as the deacons of the churches shall buy or procure, bona fide, for the churches publike vse."

In March, 1687, they provided that no persons should be appointed captains in the train bands, or be chosen to any office, but such as were freemen, that is, church members, and authorized the freemen of the different towns to send their votes for the election of colony officers to the General Court by proxy instead of coming to the court to vote in person, as up to that time they had been required to do. September 19, 1687, at a Quarter Court held by the governor, deputy governor and assistants a grand jury was summoned and a man indicted for murder, who being tried by a jury of twelve, called in the record "the jury of life and death," was found guilty.

At a General Court in November, 1687, William Aspinwall, John Wheelwright and many others were convicted of having signed a remonstrance or petition with regard to the ministry, called in the record "the seditious libell called a remonstrance or petition," and were disfranchised and banished; a tax of a thousand pounds was levied for the payment of the Colony's debts; a portion of the inhabitants of Watertown were authorized to remove and settle a plantation on the Concord River; and an order was made for disarming persons who shared the opinions of Mr. Wheelwright and Mrs. Hutchinson. Under this order fifty-eight persons, many of them very prominent freemen of the Colony, were disarmed. The Court then prohibited the selling of

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any beer or other drink for more than one penny the quart at the most; ordered that no brewer should sell any beer or other drink stronger than could be afforded at the rate of eight shillings the barrel; provided that innkeepers should sell unto their guests such victuals as they should call for, and not force them to take more or other than they desired, be it "never so mean or small in quantity;" and also provided that it should be lawful for any innkeeper to have in his house "some small quantity of strong water for his own private and necessary use." They then fixed a fine of one hundred pounds for brewing without licence by the Court; ordered that no persons should sell any cakes or buns except such as might be made for any burial or marriage, or such like special occasion, upon penalty of ten shillings fine; and fixed the entry fee of actions at eighteen-pence and the making of executions at two shillings, and provided that there should be in every town "a coppey of the lawes;" authorized the town of Newbury, by a vote of the freemen, to raise sixty pounds for maintenance of the ministry by a tax upon every inhabitant in the town; fixed the marshal's fees for levying of executions; and ordered a bounty of ten shillings apiece for killing wolves and two shillings apiece for killing foxes. In 1687 a Quarter Court gave damages to a defendant against a plaintiff, who had summoned him to court and had not attended to prosecute. This was done in two cases.

In March, 1688, the General Court for the first time provided for a committee to hear and determine petitions and other private business; provided for a re-

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trial of measures and weights in each town; banished John Green for writing a letter charging the Court with usurping the power of Christ over the churches and men's consciences; banished Jane Hawkins for presuming to meddle with surgery and medicine, and forbade her to question matters of religion except "with the elders for satisfaction." At the next General Court they ordered that Newe Towne should afterwards be called Cambridge, and that every town should bear the charges of their own magistrates and deputies to the General Court, requiring of them to allow three shillings sixpence a day for a magistrate, and for a deputy two shillings sixpence a day, "for their dyot & lodging."

In September, 1638, the General Court provided for the distraint upon and sale of lands and goods of persons who had not paid their taxes; established a court for the trial of small causes under twenty shillings; passed an order reciting that many of those who were not freemen, or members of any church, declined to contribute to town charges, and declared that every inhabitant in every town was liable to contribute to all charges both in Church and Commonwealth proportionately to his ability, whether a freeman or not. They also passed another order against the taking of tobacco; and provided that no man should kindle a fire by gunpowder for taking tobacco, except in his journey. Apparently these provisions against the use of tobacco were partially, at least, on account of the danger of fire. They then provided that all persons who had been excommunicated from any of the churches for the space of

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six months without labouring to be restored should be punished by fine, imprisonment or banishment.

In March, 1639, the General Court ordered that the college to be built at Cambridge should be called Harvard College; and ordered the payment to Lieutenant Davenport for charges disbursed for slaves kept by him, which he was to pay back when the slaves had earned it. The slaves referred to in this order were persons whom the courts had sentenced to be committed as slaves in punishment for offences. Cases of this kind will be found stated in the Appendix. At a Quarter Court held in June, 1639, one Sylvester, "for speaking against the law about hogs, & against a perticuler magistrate, was fined ten pounds;" Samuel Norman was sentenced to be whipped for speaking disrespectfully of the ministers; Boston was fined twenty shillings for defective highways; Roxbury was fined ten shillings for damming up a way from Boston to Dorchester; two millers were each fined three pounds for taking too much toll; several persons were fined for releasing servants before the expiration of their time; Hingham was authorized to use their meeting-house for a watch-house; and Watertown was fined ten shillings for not having a pair of stocks.

At a Quarter Court in September, 1639, Daniel Clark, being found by a jury to be an immoderate drinker, was fined two pounds, whereof three shillings were paid to the jury, and the following order was passed against drinking healths:

It is therefore ordered, that (after the publication of this order) no person of this iurisdiction, nor any other person who shall

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hereafter come into this iurisdiction, (after one weekes residence heare,) shall, directly or indirectly, by any colo^r or circumstance, drinke to any other, contrary to the intent of this order, vpon paine of xij^d, to bee forfeited for every offence, to bee levied by the cunstable, by order from any magistrate, or such as are appointed in townes to determine small causes, vpon conviction by confession of the party, or other sufficient testimony vpon oath, to bee to the vse of the towne, where the offence shall bee coñitted, & of the party complaining, by equall pportion./

The following order was passed with regard to wearing-apparel:

Whereas there is much complaint of the excessive wearing of lace, & other superfluities tending to little vse or benefit, but to the nourishing of pride & exhausting of mens estates, & also of evill example to others, it is therefore ordered by this Court, & decreed, that henceforward no person whatsoever shall P^rsume to buy or sell, wthin this iurisdiction, any manner of lace, to bee worne or vsed wthin o^r limits./

And that no taylor, or any other person whatsoever, shall hereafter set any lace or points vpon any garments, either linnen, wollen, or any other wearing cloathes whatsoever, & that no pson hereafter shalbee employed in making of any manner of lace, but such as they shall sell to such persons as shall & will transport the same out of this iurisdiction, who, in such case, shall have liberty to buy the same: And that hereafter no garment shalbee made wth short sleeves, whereby the nakedness of the arme may bee discovered in the wearing thereof; & such as have garments already made wth short sleeves shall not hereafter were the same, vnless they cover their armes to the wrist wth linnen, or otherwise: and that hereafter no person whatsoever shall make any garment for weomen, or any of ther sex, wth sleeves more then halfe an elle wide in the widest place thereof, & so proportionable for bigger or smaller persons./

The following order was passed with regard to marriage:

For p^rventing of all vnlawfull marriages, e^c. it is ordered,

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that, after dewe publication of this order, noe psons shalbee ioyned in marriage before the intention of the pties pceding therein hath bene 3 times published at some time of publike lecture or towne meeting, in both the townes where the pties, or either of them, do ordinarily reside; & in such townes where no lectures are, then the same intention to bee set vp in writing, vpon some poast standing in publike viewe, & vsed for such ^{purpose} ~~papers~~ onely, & there to stand, so as it may easily bee read, by the space of 14 dayes.

And all townes w^{ch} have no weekly lecture shall fourthwth appoint or set vp a post in some publike place, to bee vsed for that purpose onely, vpon paine of x^{sh} the month for default thereof./

At this Court the following important order with regard to keeping records was passed:

Whereas many iudgments have bene given in o^f Courts whereof no records are kept of the evidence & reasons wherevpon the verdict & iudgment did passe, the records whereof being duely entered & kept would bee of good vse for president to posterity & a reliefe to such as shall have iust cause to have their causes reheard & reveiwed, it is therefore by this Court ordered & decreed that henceforward every iudgment, wth all the evidence, bee recorded in a booke, to bee kept to posterity./

Item: That there bee records kept of all wills, administrations, & inventories, as also of the dayes of every marriage, birth, & death of every pson w^{thin} this iurisdiction./

It: To record all mens houses & lands, being certified vnder the hands of the men of every towne, deputed for the ordering of their affaires./

The business of the Court of Assistants having much increased, it was ordered that the assistants residing in or near to Boston, or any five, four or three of them, the governor or deputy governor to be one, might meet on the fifth day of the eighth, eleventh, second and fifth months, and determine civil causes not exceeding twenty pounds in amount, and criminal cases

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not extending to life, member or banishment, and might summon juries for that purpose out of the neighbouring towns. It was also ordered that no magistrate or deputy should depart from the General Court without the consent of the Court, under a penalty of one hundred pounds; John Stone and his wife were admonished "to make bigger bread;" persons who were not innkeepers were authorized to entertain strangers upon occasion of great assemblies and arrival of ships with passengers; each town was authorized to license some person to sell wine; and innkeepers were required to provide stables and hay for horses, and enclosures for pasturing where there was need; but it was declared that if any should take excessive prices "they shall be deeply fined for the same."

They then passed a general order for laying out of highways and compensating any person whose property was damaged thereby; prohibited the kindling of fires by any person in other persons' grounds upon penalty of fine or whipping; and appointed the house of Richard Fairbanks in Boston as a place to which letters brought from beyond the seas, or to be sent beyond the seas, were to be brought, he to take care that they be delivered or sent according to their directions, and be allowed one pence for each letter, but they provided that no man should be compelled to bring his letters thither except he please. This was the first post-office in the Colony.

At a Quarter Court in 1689 the assistants made decrees of nullity of marriage and of divorce, fined the offending party a hundred pounds and to be set in the

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stocks for an hour on a market day after the lecture, saying, "the next lecture day if the weather pmit, or else the next lecture day after." In May, 1640, the General Court repealed the order as to the time of beginning the lectures, and left the same to the discretion of the churches. Then they passed an order reciting the absolute necessity "for the raising of the manufacture of linnen cloth, &c.," and required the magistrates and deputies of the several towns to make inquiry "what men & weomen are skilfull in the braking, spiñing, weaving, what means for the pviding of wheeles, & to consider wth those skilfull in that manufacture what course may bee taken to raise the materials & pduce the manufacture, & what course may bee taken for teaching the boyes & girles in all townes the spiñing of the yarne," and then added that "the like consideration would bee had for the spiñing & weaveing of cotton woole."

At the next session it was ordered, for the encouragement of the manufacture of linen, woollen and cotton cloth, that whosoever should make any sort of the said clothes fit for use, and show them to the next magistrate or to two of the deputics, upon certificate thereof to the Court, should have an allowance of threepence in the shilling of the worth of the cloth. It was also recited that there was "a great stop in trade and commerce" for want of money, and therefore it was provided that no man should be compelled to satisfy any debt, &c., in money, but satisfaction should be accepted in corn, cattle, fish or other commodities at such rates as the courts should set down from time to time, or in

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default thereof should be fixed by indifferent men to be appointed. But they carefully provided that this order should not extend to debts or other payment due or arising upon any contract or other original cause previously existing.

They then fixed a bounty of forty shillings upon a wolf killed by hounds, and ten shillings upon a wolf killed with a trap, or shot; and then they made an order which is quite significant, as showing that there was even then a tendency to overmuch talk in the legislature, that "no man in the Generall Courts shall speake above three times to any cause without leave from the Governo^r or Court upon paine of 12^d a time." Then they granted the ferry between Boston and Charlestown "to the colledge," and ordered that thereafter no mortgage or grant of any houses, lands, rents or other hereditaments should be enforced against any person except the grantor and his heirs, unless the same was recorded; appointed a recorder for Ipswich and for Salem, and for all other records the recorder at Boston. But they provided that the whole bargain, sale, &c., need not be entered, but only the name of the grantor and grantee, the thing and the estate granted, and the date, and made the fee for every such record sixpence.

In May, 1641, they established four Quarter Courts, to be kept each year by the magistrates of Ipswich and Salem, to have the same power both of civil and criminal cases that the Court of Assistants had at Boston, except trials for life, limb or banishment, which were wholly left to the Boston Court; and provided for an appeal from any of these courts to the Boston

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Court, and also that actions of above a hundred pounds in amount might be tried at any of these courts, or at the Boston Court, as the plaintiff might elect. They also passed an order reciting the scarcity of money, the great abatement in prices of corn, cattle and other commodities, and declared that all servants, labourers and workmen should be content to abate their wages according to the fall of the commodities wherein their labours were bestowed, and that they should "be content to partake now in the present scarcity, as well as they have had their advantage by the plenty of former times." They then passed an order granting a monopoly to such persons as should discover mines; desired the elders to make a catechism for the instruction of the youth in the grounds of religion; again banished Jane Hawkins; granted a monopoly of making salt to one Winslow; and further regulated the election of magistrates by the freemen.

In June, 1641, the General Court, reciting the want of clothing which was likely to exist in the Colony during the next winter, ordered that notice be given of a certain kind of wild hemp which it was thought might be gathered for the making of cloth, and particularly ordered that all children and servants should be industriously employed "so as the mornings & evenings & other seasons may not bee lost, as formerly they have bene; (& if it bee so continued will certainly bring us to pov'ty;) but that the honest & pfitable custome of England may bee practised amongst us, so as all hands may bee implied for the working out of hemp & flaxe, & other needfull things for cloathing,

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wthout abridging any such servants of their dewe times for foode & rest, or other needful refreshings.” They then granted a monopoly to certain persons named for the trade with the Indians in furs; and repealed the order against selling strong water to the Indians so far as these persons were concerned, the monopoly to continue for three years. In December, 1641, they provided for an armory “in some part of Boston meeting house,” and an inventory of the arms; established the form of the recorder’s oath; condemned William Hatchet to be hanged; provided for nineteen copies of the laws, liberties and forms of oaths to be authenticated by three of the deputies, and ten shillings apiece to be paid for each copy by the constable of each town.

In 1642 the General Court provided that a plaintiff who should not prevail in his action should bear all the charges of the Court occasioned thereby, and that he might further be fined if the merit of the cause should so require, and also provided that if the defendant was in fault he should pay the charges. After this they appear to have required security for costs by parties bringing actions. The selectmen of towns were given power to lay out ways in their own towns upon due recompense to be given to any person damaged thereby. The neglect of parents to cause their children to be taught to read and understand the principles of religion, &c., and to be industrious was again recited, and it was specially provided that children “who are sett to keep cattle be set to some other employm^t wthall, as spinning upon the rock, knitting, weaving tape, &c.

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& that boyes & girles be not suffered to converse together." Then they provided that they would not proceed to judgment in any cause, criminal or civil, without taking an oath to deal uprightly and justly therein, according to their judgment and conscience, which was the first requirement of an official oath in judicial proceedings in the Colony.

They then provided for a record of births, marriages and deaths, including in their order a provision for finding out in the several towns who had been born and who had died since the first founding of their towns, and the recording thereof. At this General Court it was provided that all causes between parties should first be tried in some inferior court, and if the defeated party should have any new evidence or new matter he might have a new trial in the same court upon an appeal or review, and if justice was not done him upon that trial he might then come to the General Court for relief. At this same Court they provided that a jury might find the matter of fact in all trials between parties, and that "the judges are to declare the sentence of the lawe upon it, or they may direct the iury to find according to the lawe;" and also provided that if there were any matter of apparent equity, as upon the forfeiture of an obligation, &c., without damage, the judges should determine such matter of equity. This is apparently the first exercise of equity jurisdiction in the Colony.

They then took special action with regard to protection against the attacks of Indians, making provision for alarms, calling out the men in the different towns,

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and specifically providing that "every towne pvide a sufficient place for retreat for their wives & children to repaire to, as likewise to keepe safe the am̄nition thereof."

At the same Court they established the government and direction of Harvard College; appointed a committee to treat with commissioners from the other colonies about a union to avoid danger from the Indians, &c., but carefully provided that they should not enter into any offensive war without order of the Court; and passed an order preventing the sale of "insufficient" leather. They also made an order appointing arms to be brought to the meeting-houses on the Lord's Days and at other times of meeting providing that ammunition be safely disposed of, so "that an enemy may not possess himself of it;" and passed another order reciting that, for "the preventing of occasions of partial and undue proceedings in Courts of justice, and avoiding of jealousies" in civil causes when there should be so near relation between any judge and any of the parties as between father and son, brother and brother, uncle and nephew (landlord and tenant, in matters of considerable value), the judge, though he might have liberty to be present in the court at the time of the trial and give reasonable advice in the case, yet should have no power to vote or give sentence therein, neither should sit as a judge "but beneath the bench when hee shall so pleade or give advice in the case."

In this year they declared Samuel Gorton, upon consideration of his writings, &c., "to bee a blasphemous enemy of the true religion of o^r Lord Jesus Christ &

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his holy ordinances, & also of all civill authority among the people of God, & perticularly in this iurisdiction,” and ordered that he be confined to Charlestown, “there to bee set on worke, & to weare such boults or irons as may hind^r his escape, & to continue dureing the pleasure of the Co^rt.”

In March, 1644, the sittings of the Deputies and of the Magistrates were separated by the following order:

Forasmuch as, after long experience, wee find divers inconveniences in the mann^r of o^r pceding in Co^rts by ma^{trats} & deputies siting together, & accounting it wisdome to follow the laudable practice of other states who have layd groundworks for government & order in the issuing of busines of greatest & highest consequence,—

It is therefore ordered, first, that the magistrates may sit & act busines by themselues, by drawing up bills & orders w^{ch} they shall see good in their wisdome, w^{ch} haveing agreed upon, they may p^sent them to the deputies to bee considered of, how good & wholesome such orders are for the country, & accordingly to give their assent or dissent, the deputies in like mann^r siting a p^t by themselues, & consulting about such orders & lawes as they in their discretion & expience shall find meet for co^mon good, w^{ch} agreed upon by them, they may p^sent to the magistrats, who, according to their wisdome, haveing seriously considered of them, may consent unto them or disalow them; & when any orders have passed the appbation/ of both ma^{trats} & deputies, then such orders to bee ingrossed, & in the last day of the Court to bee read deliberately, & full assent to bee given; p^{ro}vided, also, that all matt^s of iudicature w^{ch} this Co^rt shall take cognisance of shalbee issued in like manner.

In 1644 Thomas Dudley was commissioned as sergent major-general, by a commission of great length, giving him extraordinary powers, but requiring him at all times to observe such orders, instruction, messages

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and directions as should be directed to him “from the Gen^rall Co^rt in the time of its being, & at all other times from the councill of the co^mon wealth,”—a commision not well calculated for efficiency of military action.

At the same session they required any foreigner who might bring suit against a settled inhabitant to give security for costs in advance; and also provided for the attachment of goods and chattels or of lands, by notice given to the party, or left in writing at his place of usual abode, and further provided that if the defendant was out of the jurisdiction the cause might be tried, but judgment not entered before the next court, and that execution should not issue before the plaintiff gave security to be responsible to the defendant if he should reverse the judgment in one year, or such further time as the Court should limit.

In this year the Anabaptist controversy arose, when the Court passed the following order:

Forasmuch as experience hath plentifully & often pved y^t since y^e first arising of y^e Anabaptists, about a hundred years since, they have bene y^e incendiaries of co^mon wealths, & y^e infectors of persons in maine matt^{rs} of religion, & y^e troublers of churches in all places where they have bene, & y^t they who have held y^e baptizing of infants unlawfull have usually held oth^r erro^rs or heresies togeth^r therewith, though they have (as oth^r hereticks use to do) concealed y^e same, till they spied out a fit advantage & oportunity to vent y^m, by way of question or scruple, & whereas divers of this kind have, since o^r come^s into New England, appeared amongst o^rselues, some whereof have (as oth^{rs} before y^m) denied y^e ordinance of magistracy, & y^e lawfulness of making warr, & oth^{rs} y^e lawfulness of ma^{trats}, and their inspection into any breach of y^e first table, w^{ch} opinions, if they should be connived at by us, are like to be increased amongst us, & so must

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necessarily bring guilt upon us, infection & trouble to y^e churches, & hazard to y^e whole com^on wealth,—

It is ordered & agreed, y^t if any p^oson or p^osons wthin y^e iurisdiction shall eith^r openly condemne or oppose y^e baptiz^e of infants, or go about secretly to seduce oth^os fro^m y^e app^olation or use thereof, or shall purposely depart y^e congregation at y^e administration of y^e ordinance, or shall deny y^e ordinance of magistracy, or their lawfull right or authority to make warr, or to punish y^e outward breaches of y^e first table, & shall appear to y^e Co^t wilfully & obstinately to continue therein after due time & meanes of conviction, every such p^oson or p^osons shalbe sentenced to banishm^t.

At the same session they appointed a notary public; and commended to the severall towns the giving by every family of one peck of corn or twelvecence in money, or other commodity, for the college at Cambridge; made a decree of nullity of marriage; remitted the rent of the ferry from Boston to Winnetsemett, upon condition that the ferryman in lieu of rent should carry all the magistrates and deputies free, with their necessary attendants, and fixed the charge at the Weymouth ferry at twopence for every person's passage.

In November, 1644, they propounded to the Reverend Elders certain questions, and received their answers at great length, as to the nature of the government under the patent,—whether the governor and assistants had power to dispense justice without some law or order of the General Court; whether the government was a pure aristocracy, or mixed with a democracy, &c.,—all of which answers were duly recorded, and such as were put to vote were approved to be just and true answers.

At the General Court, in May, 1645, it was ordered

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that all youth from ten to sixteen years of age should be instructed by some experienced soldier upon training days in the exercise of arms and bows and arrows, provided no child should be taken to such exercise "against his parents' minds."

An order was then passed against the keeping of inns without a licence, regulating the prices of wines, beer, &c., forbidding innkeepers to suffer any person "to be drunke or drinke excessively, or continue tippling above y^e space of halfe an hour," and fining every person found drunk ten shillings; three shillings and fourpence for excessive drinking; for sitting idle and drinking above half an hour two shillings sixpence; and declaring it to be excessive drinking of wine when above half a pint of wine was allowed to one person, and that no labourer or workman whatsoever should be "inforced or p^sed to take wine in pay for his labo^r."

Then, turning to other matters, they provided for the placing of John Eales in some place where he might carry on his trade of beehive-making, the town to make up what was wanting to defray the expense of his livelihood; and passed an important order requiring that the charges for "the dyet of the Court" should be satisfied by the several towns according to their equal proportions. They then provided that assistants should have five hundred pounds estate allowed to each of them, rate free from town and country levies, for the space of three years, in consideration of the many public employments to which they were called. They also passed a further order as to the bounties upon

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wolves; an order about a monopoly of iron works; and the following act against lying:

WHEREAS *Trueth in Words, as well as in actions, is required of all men, Especially of Christians, who are the professed Servants of the God of Trueth; And whereas all Lying is contrary to truth, and some sort of lyes are not onely sinfull (as all lyes are) but also pernicious to the Publick weal, and injurious to particular persons;* It is therefore Ordered by this Court and Authority thereof, That every person of the age of discretion (which is accounted fourteen yeares) who shall wittingly and willingly make, or publish any lye, which may be pernicious to the publick weal, or tending to the damage or injury of any particular persō, or with intent to deceive and abuse the people, with false newes and reports, and the same duely proved in any Court or before any one Magistrate (who hath hereby power granted to hear and determine all Offences against this law) such person shall be fined for the first Offence *ten shillings*, or if the party be unable to pay the same, then to be *set in the stocks* so long as the said Court or Magistrate shall appoint, in some open place not exceeding two houres. For the second Offence in that kind, whereof any shall be Legally convicted, the sum of *twenty shillings* or be *whipped* upon the naked body not exceeding ten stripes. And for the third Offence *forty shillings*, or if the party be unable to pay, then to be whipped with more stripes, not exceeding fifteen. And if yet any shall offend in like kind and be Legally convicted thereof, such person, male or female, shall be fined *ten shillings* a time more then formerly, or if the party so offending be unable to pay, then to be whipt with five or six more stripes then formerly, not exceeding fourty at any time. The aforesaid fines shall be levyed or stripes inflicted either by the Marshall of that Jurisdiction, or Constable of the town, where the Offence is Committed according as the Court or Magistrate shall direct. And such fines so levyed shall be payd to the Treasury of the shire where the cause is tryed. And if any person shall find himselfe greived with the sentence of any such Magistrate out of Court, he may appeale to the next Court of the same Shire, giving sufficient security to prosecute his appeale, and abide the Order of the Court, and if the said

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Court shall judg his appeal causless he shall be double fined, and pay the charges of the Court, during his action, or Corrected by whipping as aforesayd, not exceeding *forty stripes*, & pay the costs of the Court, and party complaining or informing and of the witnesses in the case. And for all such as being under age of discretion that shall offend in *Lying* contrary to this Order, their parents or masters shall give them due Correction & that in the presence of some Officer if any Magistrate shall so appoint, Provided allwaies, that no person shall be barred of his just action of slaunder, or otherwise, by any proceeding upon this Order.

They then passed an order for the encouragement of the raising of sheep for making woollen cloth; provided further for the levying and collection of duties upon wines brought into the Colony; appointed commissioners for the United Colonies; appointed committees of persons from each county to prepare a code of laws; provided for the establishment of military companies in various towns, giving them authority to make orders for the managing of their military affairs, and the right to assemble themselves for military exercises; levied a colony tax of £616.15, to be paid in cattle and commodities, the prices of which were fixed in the levy; and then "Upon weighty reasons moveing" they ordered that "Mrs. Chamberlin, widowe, sister to M^r Israell Stoughton (lately a worthy member of y^e coñon weale), shalbe alowed out of M^r Androws gift eith^r a cowe or five pounds." Then being informed that there was no drum within the town of Salem, by reason of which the inhabitants had no way of giving warning upon the approach of an enemy, they ordered "y^t y^e said towne of Salem shall pvide two good druṁs to be always ready upon occasion for y^e towne & band, to be

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pcured wthin three weekes, upon y^e poenalty of five pound." May, 1645, they ordered a military watch in all towns, and provided the form of the charge which was to be given to them when the watch was set; and repealed the order against drinking healths one to another.

They prohibited the settlement or entertainment in any town of all persons who were not admitted by vote of the inhabitants. At one time no person could pass out of Boston after sunset on Saturday night except upon giving "such good account of the necessity of his business" as might be "to the satisfaction" of the persons who kept the ward or watch; and no cart could pass out upon "any pretence whatever." They prohibited ordinary amusements, decorative dress and ornaments of the person, the wearing of long hair or of wigs by men, and the curling of their own hair by women. They punished swearing and lying with the lash, and blasphemy and adultery with death. They persecuted the members of the Church of England, made the observance of Christmas a crime, whipped and banished Quakers, and punished heresy with death. They fixed the prices of commodities and the wages of labour, and regulated the expense of living and the character of clothing, by arbitrary edicts. Their laws were enforced by fines, imprisonment, whipping, mutilation of the person, branding with hot irons, banishment and death.

As we read the records of their courts we are amazed at the character of the crimes committed and of the punishments inflicted. In their penalties they did not respect sex or age. Women were put in the stocks, compelled to stand in the pillory with cleft

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sticks on their tongues, whipped, banished and hanged, and even girls were publicly whipped. Their general law provided that whenever a person was committed to the house of correction he should be at once whipped and then kept on low diet and at hard labour. A partial transcript of sentences of this character made from the imperfect court records now remaining will be found as an appendix. Among them the following are illustrative:

Dan: F'airefeild was sentenced to be severely whipped at Boston on a lecture day, "have one of his nostrills slit so high as well may be, & then to bee seared, & kept in prison, till hee bee fit to bee sent to Salem, & then to bee whiped againe, & have the other nostrill slit & seared." Also "to weare an hempen roape about his neck, the end of it hanging out two foote at least," and if found without it to be whipped.

Philip Ratliffe, for uttering malicious and scandalous speeches against the government and the Church at Salem, was sentenced to be whipped, have his ears cut off, fined and banished; and Katherine Finch, "for speaking against the magistrates, churches and elders, was censured to be whipped and committed till the General Court."

John Kempe, for immorality, was censured to be whipped at Boston, Roxbury and Salem and committed for a slave; and James Luxford was sentenced, "for his forgery, lying & other foule offences," "to bee bound to the whipping poast, till the lecture from the first bell, & after the lecture to have his eares cut of; & so hee had liberty to depart out of o' iurisdiction."

Rebeckah Rogers was sentenced to be "severely

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whipped with thirty stripes on a lecture day next after the lecture;" and Maurice Brett, for contemptuous carriage towards the Court, was sentenced to stand in the pillory with his ear nailed to the pillory, and after an hour's standing to have his ear cut off, and to pay twenty shillings for his swearing, or be whipped with ten stripes.

Elisabeth Broune was sentenced to stand an hour upon the gallows, and to be tied to a cart's tail and be severely whipped, not exceeding thirty-nine stripes, to the prison, and on the next lecture day at Charlestown to be carried over and there alike severely whipped with thirty stripes. Darby Ryan was sentenced to be tied to a cart's tail, "stripped from the girdle upward and on his naked body to be whipped with thirty-nine stripes well laid on" presently after the lecture, in Boston. Elinor May was sentenced to be tied to a cart's tail and "whipped upon her naked body from the prison to the place of her abode, not exceeding thirty-nine stripes well and severely laid on;" a Frenchman, for the offence of clipping money, was sentenced to stand two hours upon the pillory and then have both ears cut off by the executioner; and Mary Knights was fastened to a cart's tail, and severely whipped on her naked back to the prison. Joseph Gatchell, for blasphemy, was sentenced "to be placed in the pillory to have his head & hand put in & haue his tounge drawne forth out of his mouth & peiret through wth a hott Iron & then to be returnd to the prison there to Remajne vntill he sattisfy & pay all y^e charges of his tryall & ffes of Court . . . The marshall Genril taking neces-

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sary help wth him is to see y^e execution of y^e sentenc
pformed.”

Dunton, who was in Boston in 1686, wrote that
“Their way of whipping Criminals is by Tying them
to a Gun at the Town-House and when so Ty’d whip-
ping them at the pleasure of the Magistrate and ac-
cording to the Nature of the Offence.” Dunton may
have seen this done, but the records show that a whip-
ping-post and stocks, or pillory, were early put up in
the market-place, and after the Town House was built
were maintained below and at the east end of it, and
that persons were tied to this post to be whipped.

The calmness with which even cultivated men then
viewed the public whipping of women appears from
the record by Governor Winthrop of the punishment
of Mrs. Oliver in 1688. She was a woman of good
character, but differed violently with the magistrates
as to religious matters, for which she was reprov-
ed, and finally sentenced to have her tongue put in a cleft
stick, and then to be whipped. Winthrop calmly writes
of this in his journal: “She stood without tying and
bare her punishment with a masculine spirit.” But he
adds, “After, when she came to consider the reproach
which would stick to her by this, she was much dejected.”

And yet the colonists of Massachusetts Bay were no
more bigoted or cruel than the people of the other
colonies and of England at the time.* It was a fana-
tical, cruel, bigoted period, when liberty of conscience
and of person, though loudly professed, was rigidly

* For a comparison of the laws of the colonies and the laws of England in
these matters, see *Blue Laws, True and False* (Trumbull).

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suppressed, and individual action was subject to the most minute and arbitrary public control.

In the "Body of Liberties" of 1641, punishment by whipping was restrained as follows: "No man shall be beaten with above 40 stripes, nor shall any true gentleman, nor any man equall to a gentleman be punished with whipping, unles his crime be very shameful, and his course of life vitious and profligate." But this *restraint* of whipping to forty stripes was evaded by whipping the criminal at successive times and in different towns. Not less than twelve crimes were still punishable by death under this code, and all laws were declared by it to be based upon the laws of God.

But while the colonists thus ruled their internal affairs, they steadily maintained their chartered privileges and their rights under the common law of England against all encroachments of the royal power; and though they may seem to us now to have been tyrannical and cruel, they were men of character and courage—they believed something and had that constancy born of conviction which always ultimately prevails over mere intellectual power.

Thus the early settlers lived and ordered their affairs. Their lives were plain and simple, and full of suffering and toil. They had no written constitution and no lawyers. The Bible was their constitution and the ministers were their lawyers. Their civil government was developed from their theology, and their legislation was the reënactment of the laws of God, as they understood them.

Amid these rude surroundings and primitive condi-

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tions, under the severe but salutary rule of the Puritans, when the stocks and the whipping-post, though less expensive, were quite as efficacious for good order and law as the modern reformatory and prison, the first Town House was built.

Origin and Construction of the Town House

THE Town House had its origin in the sagacious benevolence of Captain Robert Keayne, the first commander of the Ancient and Honourable Artillery Company, and one of the most prosperous and benevolent citizens of the town. He was a merchant, and his house and shop were at the southeast corner of the Great Street and the Corn-Hill, where he daily saw the necessity for better conditions for the market. The need of a Town House was felt by all the citizens, but they were not able, even if it had seemed to them proper, to pay the expense by general taxation.

The first suggestion of record with regard to a Town House is found in the town records of March 12, 1649, when "At a generall Townesmeetinge of all the Inhabitants . . . It was ordered that those that shall undertake to builde a howse for the Courts to be kept in, shall have the Imunitye of it that comes by any tole or rent to them and their hayers for ever."

But the people were very poor, and as no one could be found to undertake the expense required for the construction of such a building, they continued to use the meeting-house, not only for worship, but for town and colony affairs, until after the death of Captain Keayne. He died March 23, 1655-6, and left a will written wholly in his own hand, of about one hundred and fifty closely written folio pages. The preamble was as follows:

I Robert Keayne, Cittizen and M^cchant Taylor of London by

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freedome, and by the good Providence of God now dwelling at Boston in New England in Amireca being at this time through the great goodnes of my God, both in health of body, & of able and sufficient memory, yet considering that all flesh is as grasse, that must wither and will returne to the dust, and that my life may be taken away in a moment, therefore that I may be in the better readinesse (and freed from the distracting cares of the disposing of my outward estate, w^{ch} comonly follows the deferring of it, while the time of sicknes or day of Death, when the minde should be taken up with more serious and waighty consideracons) I doe therefore now in my health make ordaine & declare this to be my Last Will and Testament and to stand and to be as effectuall as if I had made it in my sicknes, or in the day or houre of my death, which is in manner and forme following

First and before all things, I comend & comit my pretious soule into the hands of Almighty God (who not onely as a Loving Creator hath given it unto me when he might have made me a brute beast, but also as a most Loveing father & mercifull Savio^r, hath Redeemed it with the pretious blood of his owne deare Sonne and my Sweete Jesus; from the gulfe of misery and ruine that I by Originall Sinne and actuall transgressions had plunged it into) Therefor renouncing all manner of knowne errors, all Popish Prelaticall superstitions, all Anabaptisticall inthusiasmes and Familisticall delusions, with all other fayned devises, and all Old and New upstart opinions, unsound and blasphemous errors, and other high imaginations, that exalt themselves against the hono^r and truth of God, in the way of his wōrsh, and ordinances and against the dignitie and cepter of the Lord Jesus Christ my Savio^r.

In this will he said as to a Town House:

I haveing long thought & considered of the want of some necessary things of publike concernment which may not be only comodious but very profitable & usefull for the Towne of Boston, as a Market place & Cundit, the one a good helpe in danger of fyre, the want of which wee have found by sad & costly experience not only in other parts of the towne where possibly they have better supply for water but in the heart of the towne about

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the market place, the other usefull for the country people that come with their provisions for the supply of the towne, that they may have a place to sitt dry in and warme both in cold raine & durty weather & may have a place to leave their corne or any other things safe that they cannot sell, till they come againe, which would be both an encouragement to the country to come in & a great meanes to increase trading in the 'Towne also, to have some convenient room or too for the Courts to meete in both in Winter & Sumer & so for the 'Townes men & Commissio^{rs} of the Towne, also in the same building or the like there may be a convenient roome for a Library & a gallery or some other handsome roome for the Elders to meete in & conferr together when they have occasion to come to the towne for any such ende, as I perceive they have many, Then in the same building there may be also a roome for an Armory to keepe the Armes of the Artillery Company & for the Souldiers to meete in when they have occasion, Now if it should not be thought convenient by the Elders & Deacons or guids of the towne that all these conveniencies should be under one rooffe or in one place of the towne or that there be some places already built that may conveniently be used or fitted up with smale cost for some of these purposes, as in the Meeting House for a Granere or Armory & other places in it for the Magistrates & Commissio^{rs} to meete in as they doe sometimes, it is true in the sumer they may, in the Winter they cannot for want of chimneyes & fyres, but it would be necessary & more convenient (And the Towne hath beene often speaking about it, to have such a building for such uses though yet it hath not beene accomplished) if there were a place fitted on purpose & set apart for suce publike uses, and if advice were taken with some skilfull & ingenious workmen & some others that have good heads in contriving of buildings such as Mr. Broughton, Mr. Clarke, the Chirirgion &c. there might such a model be drawne up that one fabricke or building may be easily contrived that would conveniently accomodate all these uses, without extraordinary cost and yet may be so done as would be a great ornament to the towne as well as usefull & profitable otherwayes but if the chiefe of the towne should be of anoth^r minde, then I should propose

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this, that the Condit & Markett House be sett in the market place somewhere betwene M^r Cogins house & mine or anywhere in that great streete betwene M^r. Parkers House & M^r Brentons or rather M^r. Webb's if it should be judged there to be more convenient, these two may handsomely be contrived in one building in w^{ch} possibly may be some other convenient roomes fitt for some of the uses before mentioned besides & for those which that place cannot supply, as for a Library & for a Gallere or Long Roome for the Devines & Schollers to meeete & conferr together upon any occasion it may be contrived to be sett all along on the foreside of the Meeting house joyning to it on the one side and the other side to be supported with pillars so the roomes about may be for Court meetings at the one side & the Elders at the other & the open roome betwene the pillars may serve for Merchants, M^r of Shippes and strangers as well as the towne (being either paled or borded on the ground) to meeete in at all times to conferr about there busines & occasions w^{ch} I conceive would be very advantagius to the towne & may be so contrived & sett forth y^t will be no disgrace or incumbrance to the meeting house but a great ornament to it but if it should be thought not convenient to have it in the front of the Meeting House, it may accomplish the same ends, if placed on that side of the Meeting House from Seargeant Williams shop to Deacon Trusdalls house, or if a building placed in one of these two places may accomplish all the ends before mencōned save only the Cunditt then a large Cunditt may be sett up alone, about the place where the Pillary stands & the other about the meeting house as before w^{ch} I leave to the best contrivement of the towne & the Elders & Deacons w^{ch} building or buildings if the towne shall thinke meeete to goe about it & improve them for the severall uses before mentioned, only the Granere may be in any other place of the towne as shalbe thought convenient, I stand not upon that though my owne judgement leads me to thinke that some places or place about the Comon Market or near to it wilbe most suitable for many reasons. I say towards the building of these convenient places.

Item I give and bequeath three hundreth pounds in good merchantable pay the one third part thereof when the frame is

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brought to the place & raysted or some part of it before when the frame is in some forwardness if neede be, the seconde part when the chimneyes are built, the house covered and closed in round and all the floors layed, and the last third part when it is quite finished, provided that it be gone about and finished within two or three yeares at the most after my decease, and if any of these either a Cundet or Markett House should be sett up before my death, by the towne or any other in the place or places above mentioned, then my gift shall remaine good either for some addition to the same worke or for the accomplishing of those other workes by me mentioned that are not done by others, with a rebating proportionable to what is or shalbe before done by the towne or any other P'son, Now that these things may not be only for a show or a name & when finished prove as shaddowes & stand as emptie roomes without substance that they may be improved for the uses that I ayme at & intend though my estate is not such as whereby I am able to doe what I desire & would be willing to doe if I had it, for such publike benefitt, yet for examples sake & encouragement of others (especially of our owne towne w^{ch} will have the benefitt of it) & such in the towne that have publike spirits & some comfortable estates to helpe on such workes I shalbe willing to cast in my mite & bring my lime & hare possibly God may stirr up the hearts of others to bring in their Badger skines & silke & others more costly things that the worke may goe on & prosper in so smale a beginning.

The will then provided that when the room for the "meeting of the Elders in the Towne House" was fitted so "that they might meet when they pleased thereat fower pounds a yeare should be payd out of some of his shops in Boston by quarterly payments w^{ch} should be ordered and disposed as the Eld^{rs} should direct or advise to provide some refreshing for them when they meete or now and then dinn^{rs} as farr as it will goe & as themselves shalbe pleased to husband it."

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Then followed another provision for a “convenient fayre roome in one of the buildings before mentioned for an Amory & the meeting of the Artillery,” &c.

Later on in the will Captain Keayne spoke further of this legacy of three hundred pounds, partially as follows:

Now concerning the originall legacy of Three hundred pounds that I have given to the Towne of Boston for the raising of a Cundit in the Market place & for a building to fitt for such uses as I have before mentioned, if any shall alleadge that three hundred pounds is not sufficient to accomplish it I answ^r. 1. That it may be some of these may be gone about & finished by y^e Towne before God may call me out of this world as y^e Cundet or m^rkett house &c. & then there wilbe the lesse to doe and I know that the Towne hath agitated it & seriously intended to have gone about to doe them all except only y^e library, as such things that are needfull & will turne to the publike advantage of the Towne. 2^{ly}. I say that I conceive if it be well managed & ordered it may doe it all or very neare it. I suppose one of the two last houses that I built hath roome enough in it to accomplish all the ends before mentioned excepting the Cundit, if it had beene first contrived & thought on for such an ende, yet that hath not cost me 400^{lb}, not by so much as I suppose will neare build a new Cundit, but Thirdly if it should fall short I doe expect & suppose that the Towne wilbe willing to add to it & make up the rest either by enlarging of the Conveniencies or beautifying the structure for the better ornament of the towne & possibly some else may thinke of some other thing wanting, that may be as usefull to the genn^rall good of the towne as most of these to be added to it, w^{ch} I have not thought upon, besides if I were about to build a thinge that I conceive would be very usefull & advantageous to me but am not comfortably able to beare the charge of it, if any freind out of love to me would lend me 300^{lb}. some considerable time gratise it would be a great incouragement to goe on with the worke, but if he should offer to give me freely 300^{lb}. towards it I should think my selfe bound to be very thanke-

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full to him and to be willing to make up what is wanting rather than I would loose so free a kindness by my neglecting of the worke.

But possibly some wilbe ready to apprehend that I may doe this only for my own endes & benefitt w^{ch} may make them the more backward to have it goe on especially with any of their own Cost, for some such spiritts there be that had rather deny themselves a benefitt then that another should enjoye a greater benefitt by it, as some have said that I have bene very forward to have a Cundit in y^t place because I have so many houses & buildings there about & so a Market House wilbe more the beneficiall to bring trade to my shops. I answ^r putt case that this were in all things true, it is not sinefull nor unlawfull in Christian prudence to p^rvide meanes for the p^rventing of danger or procureing of any lawfull good, I doubt not but they would doc the like if it were their owne case. But 3^{tlly} what advantage will this be to me when I am dead and gone, if others should not receive more benefitt then I by it I need not trouble my selfe with what may fall out in after times, in these respects for I shall feele no want, nor suffer any damage by such losses & a 100 things would come into consideration as needfull to p^rvent or provide for as these, if men going out of the world should trouble themselves with the care of such changes and things that may happen when they are dead. 3^{tlly} If my housen only were there & no other shops but myne, there might be more ground for such an apprehension, but it is the heart of the towne and many fayre buildings & shops there be round about, the Market is there scated allready, the Market house is more for the conveniency of strang^{rs} & there accomodation in winter and sumer in wet & dry there for the inhabitants of the towne & in that respect it is a worke of charitie and mercy and though some pticular p^rsons that trade may have more benefitt by it then some other p^rsons that dwell further off, yet, the advantage & profit of it will redound to the whole towne in genn^rall.

It was six months after the death of Captain Keayne before the town took the first step toward carrying out his plan. The records of the selectmen for the month of

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December 29, 1656, contain the following item: "It is agreed that the next day of our meeting some time be spent to consider of Capt. Keayne's will in respect of the legacyes given to the towne." On January 25, 1657, the record shows that the selectmen voted as follows: "Upon the perusall of Capt. Keayne's will respecting the legacyes given to the towne, itt is agreed that forthwith the executrix and overseers of the said will bee advised with concerning the said legacyes withoutt delay."

A "Generall townes meeting" was held March 9, 1657, and voted to appoint a committee, and the record runs thus: "Capt. Savage, M^r. Stodard, M^r. Howchin, and M^r. Ed. Hutchinson, sen., are chosen a com̄-ittée to consider of the modell of the towne house, to bee built, as concerning the charge thereof, and the most convenient place, as also to take the subscriptions of the inhabitants to propagate such a building, and seasonably to make report to a publick townes meeting." It is suggestive of the independent spirit of the voters that neither Mr. Broughton nor "Mr. Clarke, the chirurgeon," was appointed on this committee, although Captain Keayne in his will had suggested them as proper persons for this work. This committee prepared and circulated subscription papers as they were directed to do, and two of the original papers are preserved,—one in the possession of the Bostonian Society, and the other in that of the Massachusetts Historical Society. The enterprise evidently met with ready support, for the papers contain the names of one hundred and seventy-five persons, and the subscriptions amount to more than five hundred pounds. Many of

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the amounts were pledged in produce. "In country pay," "In goods and corne," "In goods and provisions," "In bricks, lyeme or timber," "In hats," "In shoes," are some of the phrases with which the amounts are modified. Many also agreed to give work. Edmund Jacklin made a subscription of one pound in glass, "or work, if I be in the contry when the house is to be glassed." Many promised help on condition that "y^e market house bee Errected in y^e markt place, & a Cunditt."

The "Cunditt," to which allusion is made in Captain Keayne's will, was doubtless intended for use as a reservoir for water. At all events this was the first attempt in New England to provide water for the people at the public expense. It did not succeed at the time of the building of the Town House, but it is interesting to find that Captain Keayne and many other citizens of Boston had the foresight to see that such a reservoir was needed. It was not until 1671-2 that the "Condit" was finally abandoned. In that year we find that "at a meeting of all y^e Selectmen at Capt. DAVIS house" a vote was recorded as follows:

Libertie is granted to Mr. Nicholas Paige to take away the bricke belonging to the place intended for a conduit at ye end of the towne house before his dore, provided he immediately fill the place even wth the ground about it, for w^{ch} he brought a note from the Overseers of Capt. Robert Keaynes Will, & a discharge for his guift expended thereabout, a Coppie where of followeth & y^e Originall kept amonge the townes writings.

To the Selectmen of Bostone.

Vnderstandinge by Mr. Paige that the place builded for a Conduit is prejudiciall to his house & shops and that you are willinge he should remoue and improue it to his own vse, if our consent may be had thereto and beinge informed likewise that

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Capt. Robert Keynes guift to ye towne of Bostone for y^t end hath beene expended vpon that worke, though by the prouidence of God, it hath not proued soe vsefull as was expected and desired, vpon these considerations, Wee the Ouerseers of Cap^t Keynes will shall acquiesse in what is done, and not trouble the towne of Bostone any further in relation to that particular. Witness our hands the 7th of 1st mo. 1671.

SYMOND BROADSTREET
 DANIELL DENISON
 EDWARD RAWSON
 JAMES JOHNSON.

There were two subscription papers for contributions toward the expense of building the Town House. One was as follows:

Whereas thear is giuen a considerabl sume by Capt. Kayne towars the Bulding of a towne house w^{ch} sum will not ataine the Bulding w^{ch} he mentioneth in his will, now considering the vsefulness of such a structure we whose names are vnder written, doe ingag or selues or heyres executors for to giue towards the abou sd hous and alsoe a condit in the market place the severall sumes vnder written.

	<i>£</i>	<i>s</i>	
Jo: Endecott	2	10	00
17 <i>pd</i> Ri Bellingham in Country pay	10	00	00 <i>pd</i>
<i>pd</i> Edward Tynge in Corne	10	00	00 <i>pd</i>
<i>pd</i> John Euered in goods and corne	010	00	00 <i>pd</i>
<i>pd</i> 46s Peter Olliuer in goods and provisions	10	00	00
John ^s Barrett: in goods: or corne	03	00	00
d. 29 Aug. 1658			
<i>pd</i> James Olliuer provided there be a Cundit withall in goods and provisions eqelly	12	0	00 <i>pd</i>
Will Paine in goods and provisions	15	00	00
<i>pd</i> Richard Parker in goods and provisions	10	00	00 <i>pd</i>
<i>pd</i> Nathaniell Williams in goods	03	00	00 <i>pd</i>
<i>pd</i> Sarah Parker in provisions	05	00	00 <i>pd</i>
<i>pd</i> Henry Powning in goods	02	00	00 <i>pd</i>

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<i>pd</i> John Cogan in Corne	}	05	00	00 <i>pd</i>
[] five pound				
<i>paid</i> Theodore Atkinson will give in hats		005	00	00 <i>pd</i>
Tho Howkings		02	0	0
<i>paid</i> John Hull In English goods five ^{bs}		05	00	00 <i>pd</i>
<i>pd</i> Thomas Clarke in provision or goods		04	00	00 <i>pd</i>
<i>pd</i> Robt Turner		5	0	0 <i>pd</i>
<i>paid</i> Richard Cooke in provisions		03	10	00 <i>pd</i>
<i>pd</i> Robert Swift		02	10	00 <i>pd</i>
<i>paid</i> Samuel Hutchinson in wheat		5	00	00 <i>pd</i>
<i>paid</i> Josh Scottow in pvision or goods		5	00	00 <i>pd</i>
<i>pd</i> Will ^m Hudson will: pay in bricks lyeme boards [] or timber the some of		10	00	00 <i>pd</i>
Hezekiah Usher: will pay 2 In English				
<i>pd</i> Goods or equivalent, twentye: poundes,				
<i>paid</i> prouiso: y ^t y ^e market house bee				
Eerected in y ^e marktett place: & a Cunditt		20	00	00 <i>pd</i>
W ^m Dauis will pay in goods & corne				
<i>paid</i> Fifteene pounds provided y ^e market- house be Eerected in y ^e marktett place & a conduitt also raised & finished		15	—	—
<i>pd</i> Thomas Buttolph		02	00	00
<i>paid</i> James Penn		05	00	00
<i>paid</i> Jacob Sheafe in provision & goods		12	00	00
<i>paid</i> Tho: Lake ½ In English-goods & ½ In provisions		09	00	00
<i>pd</i> Isaak Waker in English goods or pro- visions		03	00	00
<i>paid</i> John Sunderline 3£		03	00	00
[] <i>pd</i> Robt: Pateshall, in planke or boards		05	00	00
<i>paid</i> Thomas Matson		1	0	0
<i>paid</i> John Williams		0	10	0
<i>paid</i> Thomas Edsell		00	10	0
<i>paid</i> Thomas Bligh		00	15	00
<i>paid</i> Richard Gridley		02	00	00
<i>paid</i> John Button		05	00	0

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Benjamin Negus			
James Everitt in Flower	01	00	00
Robt Batterly	00	15	00
<i>paid</i> John Coney	00	15	00
<i>paid</i> Samuell Mattocke	00	7	00
<i>paid</i> Rich ^d Stanes	00	10	00
<i>paid</i> Rowland Story in Lewtenant Cooks hand	01	00	00
<i>paid</i> Ri Wayte	02	00	00
<i>paid</i> Philip Whorton	02	00	00
<i>paid</i> Augusten Clement	1	0	0
<i>paid</i> Richard Woodde in provision []	01	0	0
<i>paid</i> John Phillips	03	0	0
<i>paid</i> Tho Emons	1	0	0
<i>paid</i> Thomas Littell thre dayes worke	00	10	0
Humphrey Bradshaw thre dayes worke	00	10	0
Joseph Bonde ten shillings by Samell Lemist	00	10	0
George Brome a bushel wheate	00	04	00
<i>paid</i> William Paddy	12	0	0
<i>paid</i> Henry Kemble	00	10	0
<i>paid</i> Thomas Makepeace	01	00	0
<i>paid</i> Joshua Hewes	00	10	0
Ffrances Smith	00	10	00
<i>paid</i> Francis Douse	00	09	0
<i>paid</i> John Pierce	s4	00	
<i>paid</i> Simon Eire	1	10	0
<i>paid</i> Comfort Starr	01	00	00
<i>paid</i> Henry Phillips	05	00	00
<i>paid</i> Henry Shrimpton Corne wood	10	00	00
<i>paid</i> John Lowel	03	00	00
<i>paid</i> George Munioy three pounds	03	00	00
<i>paid</i> Jno. Joyliffe	03	00	00
<i>paid</i> Amos Richardson	02	00	00
<i>pd</i> Edmond Grenleff	0	10	0
<i>pd</i> Edward Porter	1	0	0
<i>paid</i> Nicholas Phillips	0	10	0
<i>pd</i> Thomas Harwood	1	00	0

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<i>paid</i> Thomas Brattle	5	0	0
<i>paid</i> Thomas Baker in Iron workes	01	00	0
<i>paid</i> John Biggs in Shingle or worke	002	00	00
<i>paid</i> Jo. Marshall in shoes	01	0	0
<i>paid</i> Henry Alline []	01	00	00
<i>paid</i> Hugh Drury	01	00	0
<i>paid</i> John Collens	1	0	0
<i>paid</i> Thomas Scotto	1	0	0
<i>paid</i> Nathanel Thorn	0	10	0
<i>paid</i> John Pears	1	0	0
<i>paid</i> William Reade	00	10	00
<i>paid</i> Will. Tay	00	10	00
<i>paid</i> Jo ⁿ Blacklach	01	00	00
<i>paid</i> John Clough	00	10	00
<i>paid</i> Sam ^l Davice	00	05	00
<i>paid</i> Samuell Cole	02	00	00
<i>paid</i> Christopher Gibson	02	00	00
<i>paid</i> Robert Nanney	02	00	00
<i>paid</i> Henry Bridgham	10	00	00
<i>paid</i> Thomas Waker	12	10	00
<i>paid</i> Nathanel Reynolls	01	00	00
John Hawkin's tobaco	01	00	00
<i>paid</i> Arthur Masson	00	10	00
<i>paid</i> Ann Carter 10s	00	10	00
<i>paid</i> James DAVIS by Tho: Joy 6s & 4s more	00	10	00
<i>paid</i> Daniel Turill	01	00	00
<i>paid</i> Thomas Fitch	00	10	00
<i>paid</i> Edmund Jacklin in glass or worke if I be in the contry when the house is to be glassed	01	00	00
<i>paid</i> William Gibson	00	05	00
<i>paid</i> Jeremy Castine	01	90	00
<i>paid</i> Edmund Jackson by Thomas Fay	01	00	00
Miells Towne in lether	00	5s	00
<i>pl</i> William English—in shoes	02	00	00
<i>paid</i> Joseph Howe Twenty Shillings	01	0	0
<i>paid</i> Samuel Norden in shoes	00	10	0

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<i>pd</i> 10 <i>s</i> Robert Nash in worke	01	10	00
<i>paid</i> Mathew Barnes—paid 1—9—3	1	10	00
<i>paid</i> Thomas Dewer	01	00	0
<i>paid</i> William Corser	00	10	0
<i>paid</i> Bartholomew Cheever 30 <i>s</i>	01	10	0
Henery Messenger—paid	0	10	0
Will Colburn in [] or provision			
<i>paid</i> 16 <i>s</i>	3	00	00
<i>paid</i> Edward Goodwin	0	06	00
<i>pd</i> James Johnson in his Comodityes	02	00	00
<i>pd</i> 5 <i>s</i> John Newgat promise to give five pound			
& in [] the preveledg of our			
[]	10	00	00
Thomas Bumsted of Boston promise	1	00	00
<i>paid</i> Natha. Duncan	2		
<i>paid</i> Peter Duncan	1	10	00
<i>paid</i> John Wiswall	02	10	0
<i>paid</i> Joseph Wise	2	00	00

The other original subscription paper is in the same form, but in a different handwriting and with a different mode of spelling. The subscriptions to it are as follows:

	£	s	
<i>paid</i> Robert Raynals	1	0	0
<i>paid</i> John Lake	01	10	00
<i>paid</i> Robert Sanderson	01	00	00
<i>paid</i> Raphfe Mason	01	00	0
<i>paid</i> Richard Carter by goodman Baker	01	00	0
<i>paid</i> Mr John Anderson	02	00	0
<i>paid</i> Nathaniell Greene	01	10	0
<i>paid</i> Joseph Rocke six pounds	06	00	0
<i>paid</i> Gamaliel Waite	01	00	00
Mr Ransford	01	00	00
<i>paid</i> John Shaw fisherman	00	10	00
<i>paid</i> Mical Willis cutler	01	00	00
Thomas Leder	00	10	00
<i>paid</i> William Whitwel	01	10	00

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<i>paid</i> Joseph Moore	01 00 00
<i>paid</i> Bartholomew Barloe	01 00 00
<i>paid</i> Heue Williams	02 00 00
Marke Hams	01 00 00
<i>paid</i> John Sweete	02 00 00
<i>paid</i> John Farnam in worke or other pay	01 00 00
<i>paid</i> Tho: Clarke in Bondes at springe	10 00 00
<i>paid</i> Evan Thomas will pay in literedge	01 10 00
<i>paid</i> John Baker	01 10 00
<i>paid</i> John Lewes	1 0 0
Deacon Trusdell	
<i>paid</i> Mr David Eavens pr Capt Oliver	2 00 00
<i>paid</i> William Browne	2 10 00
<i>paid</i> William Beamsleay	01 00 00
<i>paid</i> Zakary Phillips	01 00 00
<i>paid</i> Will ^m Wenborne	01 00 00
<i>paid</i> William Cotton	01 10 00
<i>paid</i> Alexander Becks	00 05 00
<i>paid</i> John Richards three pounds	03 00 00
<i>paid</i> Edward Lane p ^r mise to pay by the hands of Lieu ^t Rich. Cooke five pounds and tenn shillings I say	5 10s
<i>paid</i> Mr. Bishop	2 00 0
Mrs. Richards Re 10s	1 10 0
<i>paid</i> Alex: Adames promis	01 10 00
Mr Edward Belcher pr Mr. Hill	10 00 00
<i>paid</i> Deacon Trusdell	01 00 00
<i>pd</i> William Brenton in ()	10 00 00
<i>paid</i> Jo. Checkley	02 10 0
Simon Lynde Five pounds	5
<i>paid</i> Henry Blake	02 10 0
<i>paid</i> Mr. Henry Webb	20 00 0
<i>paid</i> Capte Pendleton	05 0 0
<i>pd</i> Richard Taylor	00 15 0
John Parker, Shewmaker	01 00 0
<i>paid</i> Abraham Busby	02 10 0
Mr Webb Shewmaker	00 10 0

The Story of the

<i>paid</i> Mr Houchin	05 00 00
<i>paid</i> Mr. Alford	01 10 00

Sketches of the signers of the subscription papers will be found in an interesting article by Walter Kendall Watkins in volume three of the *Bostonian Society Publications*.

There is no record of any discussion as to the location of the Town House. Apparently the market-place was at once accepted as the proper place for such a building. The title to the land was the same as that to the land covered by the rest of the street, namely, the original proprietary right of the first colonists under their Charter from the Crown. As late as May 3, 1708, the selectmen for the town of Boston entered on their proceedings an order: "that the Streets Lanes and Alleys of this Town as they are now bounded and named be accordingly recorded in the Town Books w^{ch} are as followeth: viz^t." And among other streets thus recorded was "The Street Leading from Corn Hill includeing the wayes on each side of the Town House extending easterly to the sea — King st."

This street, now State Street, was for many years the most frequented street in the town, and was treated by the town as one street. The space in it at the top was, as a foregone conclusion, the best place for the new public building which Captain Keayne had desired "should be a great ornament to the towne as well as usefull & profitable otherwayes."

The committee appointed by the town in January, 1657, doubtless reported progress to the town, but no record of their report is now to be found. Another

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committee was shortly after appointed with power to make contracts for the work, and August 31, 1657, they made the following written appointment of agents. The original paper is in the possession of the Massachusetts Historical Society.

POWER CONFERRED BY THE COMMITTEES FOR THE TOWN HOUSE, 1657.

Wee whose names are vnder wrighten having full power given vs by the Town of Boston to Agree with workmen, & in their behalfe to Engadge the Town, In the Payment of any sum or sums for the building Erecting & Compleating of A house for the Town both for the forme & dimentions &c. according as we shall Judge meet, They the 1st Towne having Engadged themselves to own stand by vs and pforme what promifes Covenants or Engadgm wee should make in order to the accomplishing of the premises, And to facillitate the 1st worke we the 1st subscribed doe make choyce of M Edward Hutchinon & John Hull in o behalfe to Agree & Compound with workmen & Engadge paym^t in everie respect for the 1st worke & we doe hereby oblidge o^r felves to stand by, own, & performe what the 1st M^r Ed: Hutchinon & Jn Hull Soe deputed shall doe or Engadge themselves in as iff it was the personall act of everie one off vs & heervnto we subscribe o^r hands, by this binding o^r felves likewise to own what the 1st prtyes have allridy done in the 1st worke signed this 31 of the 6th month 1657.

<i>Townesmen</i> <i>Comissioners.</i>	{	THO: MARSHALL
		SAMUEL COLE
		WILLIAM PADDY
		JOSH: SCOTTOW
		JER: HOWCHIN.

The written contract for the construction of the Town House is dated a month earlier than this appointment of agents, and was made by Hull and Hutchinon with Thomas Joy and Bartholomew Bernad. That paper is also in the possession of the Massachusetts Historical Society, and is as follows:

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AGREEM^t FOR THE TOWN HOUSE—1657

Boston, August 1. 1657.

Wee whose names are vnder wrighten Being chosen by & in behalfe of the Town of Boston, to bargain & Contract with some able workmen about A house for the Town, we have bargained & Contracted, & by these presents doe bargain & Covenant with Thomas Joy and Bartholomew Bernad of Boston; & the 1st Thomas Joy & Barth Bernad, are heerby bound & doe oblidge themselves vnto the 1st Town of Boston (& in vn [to] In their behalfe) that they will Prepare & Erect, a very substantiall and Comely building In the place Appointed by the 1st Town; The dimen-tions of w^{ch} Edifice shall be sixty six foot in Length, and thirty six foot in Breadth from out side to out side, set vpon twenty one Pillers of full ten foot high between Pedestall & Capitall, & well brafed all four waies, placed vpon foundation of stones in the bot-tome. The wholl Building to Jetty over three foot without the Pillers everie way: The height of the 1st Houfe to be ten foot be-twixt Joynts above the Pillers, and a halfe storie above that with three gable Endes over it vpon each side: A walke vpon the Top fourteen or 15 foote wide with two Turrets, & turnd Balasters and railes, round about the walke according to A modell or draught Presented to vs, by the 1st Tho: Joy & Barth: Bernad. The 1st Tho: Joy & Barth. Bernad Likewise finding things necisarie and meet for the 1st Building viz: Timber in in everie respect & of everie sort, substantiall & meet according to Proportion & Art, Plank for the sides & ends three Inch thick,* well groved into one another, and into the timbers allso an Inch and halfe; well plained and smoothed on Both sides, two Inch plank for the lower floor, and full Inch for the vpper floor, Both smoothed, and vpon the walk duple boarded and well groved; the Rooff well boarded & fhingled, with gutters sufficiently made.

Bringing all to the Place, Erecting finishing & Compleating the whole Edifice viz The Frame, foundations, Floores, staires (viz Two pair halfe paced staires & turnd staires vp into the walke) doores, window Cafes & Casements, mantle peeces Inclofures Per-

* "Only we allow of Two Inch plank for the sides & ends above the Plates & beames."

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titions* &c The wholl Edifice to be Erected, by the thirty daye of the fourth month called June next ensuing the date heeroff; and Covered and shingled within six weekes after that. The Town finding all the Iron worke, as nailes hookes hinges &c. glafs with glasing and Lead for the Gutters mafonrie worke as the chimnies, foundation of the Pillers with stone brick & Lime belonging to the same the affo^rd Tho: & Barth: all the other worke as affo.^{sd} The Town finding help at the raying.

In consideration of the premises we doe heerby oblidge ourselves (according to order & in behalfe of the f^d Town of Boston affo^rd.) To give & Assigne over vnto the f^d Tho: Joy & Barthol: Bernad or to either of them or their assignes the three Hund: Pounds w^{ch} is that Part of the Legacy of Cap^t Rob Keyne (deceased) designed & bequeathed vnto the f^d Town in his Last will for ther vse, and also one hund. Pound more we heerby oblidge o^rfelves to Pay or Cause to be paied vnto the f^d Thomas & Bartholomew or their Assignes In good Englifh goods at price Current, and likewise to doe our vtmost that one fifty pound of this above mentioned paym^t (viz out of the thre Hun^d) may be made in mony for the more lively caving an end of the affo^rd worke.

The time w^{ch} Payment shall be as followeth viz: one Hund. Pound at the Bringing of the Timber to the Place A second Hund: at the raying A third Hund: at the Inclosure & Covering A fourth at the finishing and Compleating vnto all these premises above^d we doe heerby Joyntly & severaly mutually & Interchangeably bind o^rfelves by o^r hands & seales this first of August, 1657.

We doe also engadge that the three Hund: pound in the Legacy above f^d shall be made good vnto the f^d workmen Thomas & Bartholomew.

Witness heer vnto

JOSEPH NEWGATE
JAMES BROWNE
HENRY POWNING

EDWARD HUTCHINSON (*seal*)
JOHN HULL. (*seal*)

The building was made ten inches longer and seven

* "There is to be both Roomes from the chimnies clofed on both sides and one Crofs partition in one of the Roomes; beside the stair Cafe."

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inches wider than the original contract required at an extra cost of £69 10s., and there were probably other contracts with Joy and Bernad for constructing this “substantial and comely building” at a greater expense than these original estimates. On January 28, 1660, the selectmen voted that “In reference to the accounts of Tho. Joy and partner for the building of the towne house, stayre cases and Conduit, and the compleating of the said worke, Itt is ordered that the Treasurer shall pay to the said Joy sixe hundred and eighty pounds (deducting what hath beene already paid) outt of the Treasury or next Towne rate; whereby all contracts made with the said Joy are performed as per his owne hand to a writing of this date.” Beside this, it will be seen by the contract that the town found all the iron-work, nails, hooks, hinges, &c., and all the glass, with glazing and lead for the gutters, &c. The total expense of the building appears to have been about seven hundred pounds. Taking into account the comparative value of money and the ability of the people to pay, this was probably a greater proportionate expense than that of any public building since erected in the Commonwealth.

Colony and Town Uses of the Town House

AS the Town House was designed to be used by the General Court and other Courts of the Colony, the selectmen of Boston asked the General Court to aid in its construction, and May 19, 1658, the General Court ordered that "In answer to the Selectmen of Boston, the court judgeth it meet to allow unto Boston, for and towards the charges of their town house, Bostons proportion of one single country rate* for this year ensuing, provided that sufficient rooms in the said house shall be forever free for the keeping of all Courts, and also that the place underneath shall be free for all inhabitants in this jurisdiction to make use of as a market forever, without payment of any toll or tribute whatsoever."

In accordance with this provision, the right of the town to use the Town House was always regarded as subject to its use for the courts and the General Court.

July 19, 1704, the town record shows that it was "Ordered that the Town Clerk give out warrants to Call a Town meeting on the 20th. Inst^r at 8 a Clock in y^e morning for the Townes right in y^e Flats &. the S^d. meeting being warned was prevented to convene by reason of y^e Tryall of y^e Pirates." The town meetings, as a rule, were held in the Town House, but occasionally in the meeting-house, when the Town House was occupied by the General Court. Sewall records that

* Country rate, that is, colony tax for general colony purposes. See *Colonial Laws, 1660* (Whitmore Edition), p. 135.

The Story of the

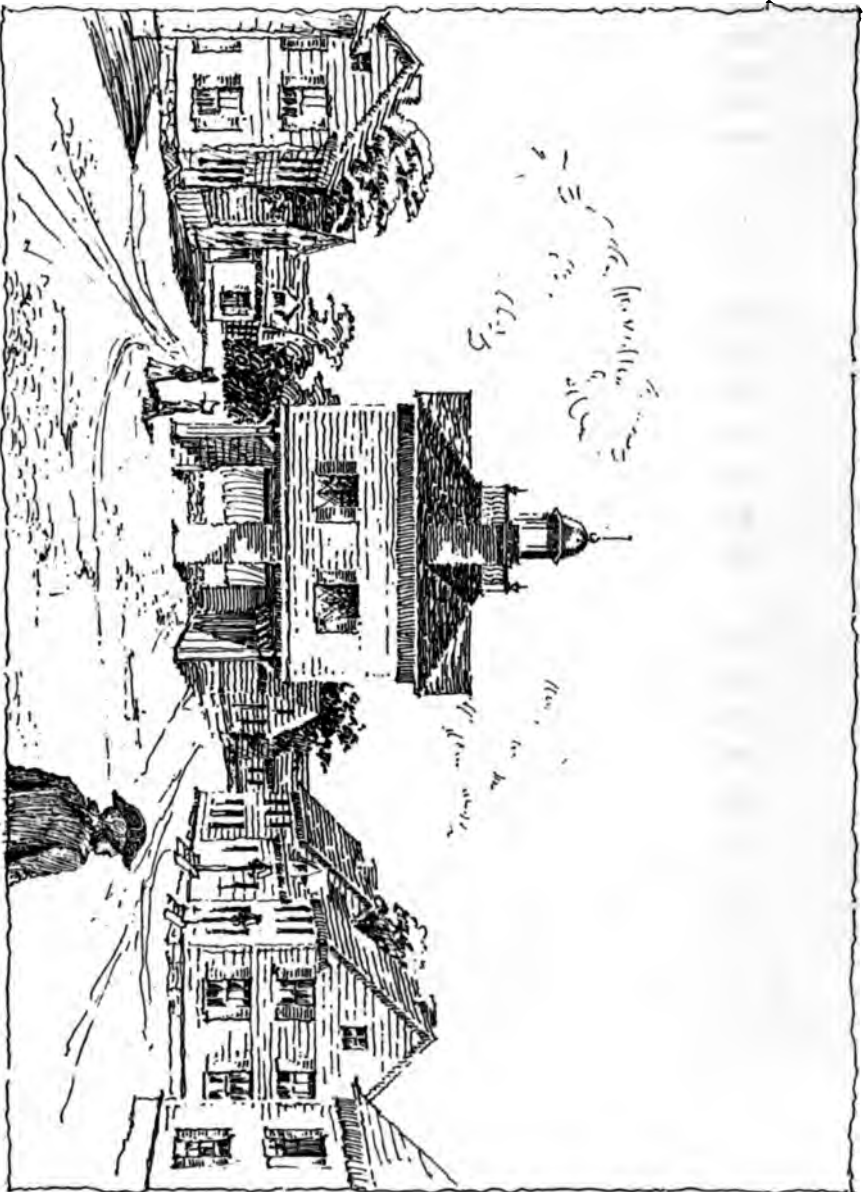
“June 1, 1703, Town Meeting is held in the old Meeting-house because of the Gen^l. Assembly, 2 P. M. Voters 206.”

The contract with Joy and Bernad required the building to be completed in July, 1658, but it was not ready for use until some time in the early part of 1659. March 28, 1659, the following record of the selectmen shows that they were caring for the safety of their new possession. “Itt is ordered that no person, whether watchman or any other, shall, att any time, take tobacco, or bring lighted match, or fire underneath or aboutt any part of the towne house except in case of military exercise, upon the penalty of twenty shillings for every such offence, except under covert for the use of the house above.”

Special orders were given to the “Watch” for the security of the Town House. The duties of these guardians of the town were set forth with precision every night, and the whole order is so quaint and so amusingly suggestive of the commands given by the inimitable Dogberry under similar circumstances, that it may well find a place here. It runs, in part, as follows:

A charge shall be giuen verballie, or read vnto the watch euery night. The Form of Charge. 1. That they Silentlie but vigilantlie walke their seuerall turnes in the seuerall quarters and partes of the Towne, two by two, a youth allwayes joyned with an elder and more sober person, & two be allwayes about the markitt place.

If they finde any younge men, Maydes, women or other persons, not of knowne fidelitie, & vpon lawfull occation walkeing after 10 of the clocke at night that they modestly demand the cause of their being abroad, & if it apeare that they are vpon ille minded employm^t then to watch them narrowlye & to com-



*Eastern Town House and Locality
View looking up State Street*

Old Boston Town House

mand them to repaire to their lodgings, & in case they obstinately refuse to giue a rationall accompt of their busines, ore to repaire home, then to secure them vntill the morninge.

For as much as the watch is to see to the regulateinge of other men actions & manners, that therefore they be exemplary themselves neither vseing any vncleane or corrupt language, now vnmanerlye or vnbeseming tearmes vnto any, but that they behaue themselves soe that any person of quallitye, ore strangers y^t ar vpon occation abroad late, may acknowledge that o^r watch neglects not due examination, nor offers any iust cause of prouocation.

That the Towne house be in a spetiall manner regarded by y^e watch to see y^t none take tobacco or vse any fire vnder o^r about the same.

There is no picture of any kind now known to exist of this building which was made while it was standing. But drawings were made for me under the direction of the eminent architect, G. F. Shepley, from the original building contract. These doubtless give a substantially correct view of the Town House as it appeared from the west and the east, and also give floor plans of the building, and are here reproduced.

From the materials at hand in the records of the time, I have tried to compare the building with the present Old State House, and to show the peculiarities of its various parts and the uses of each of them. The building stood, as the present Old State House building stands, wholly within the original lines of the street, with a portion of the street surrounding it on all sides. The west wall of the present building is fifteen feet from the line of Washington Street at the south side of the building, and eight feet from Washington Street at the north side. This leaves a triangular portion of

The Story of the

State Street between the easterly line of Washington Street and the westerly line of the State House and the buildings on the south side of the street, and the buildings on the point of the triangle touching the buildings on the north side of the street at the intersection of Washington Street. This area is approximately one thousand two hundred and twenty-five square feet. The width of State Street at its junction with Washington Street is one hundred and thirteen feet, and the width of the street at its junction with Devonshire Street is one hundred and thirteen and one-half feet. The distance from Washington Street to Devonshire Street is approximately ninety-five feet on the centre line of the street.

The present Old State House is one hundred and twelve feet long, thirty-six feet wide, and fifty-four feet and six inches high from the street to the ridge-pole at the easterly end, and forty-nine and twenty-three one hundredths feet from the ridge-pole to the westerly end nearest Washington Street. The Town House was forty-five feet two inches less in length than the present building, and probably stood at least that distance further down or easterly on the street than the present building stands, which made the grade of the street under the Town House less steep than the grade of the street under the present building, and the space underneath, therefore, easily used for a market-place.

From the provisions of the building contract we are able to ascertain the dimensions of the building and substantially its exterior construction and appearance. It was sixty-six feet ten inches long and thirty-six feet

Old Boston Town House

seven inches wide. It was constructed of wood, the sides and ends of three-inch and two-inch plank "well grooved into one another," and it stood on twenty-one wooden pillars ten feet high between pedestal and capital, which made the lower floor probably from twelve and a half to thirteen or fourteen feet above the level of the ground beneath. The lower floor was reached by stairs from the level of the street and projected three feet outside of the pillars on all sides of the building. The height of the first story above the first floor was ten feet, and above that story there was a half story with three gable ends upon each side of the building, in which there were windows, and there were chimneys at each end of the building. Upon the top of the building there was a walk fourteen or fifteen feet wide, with rails around it, and in the top of the roof there were two turrets. With the exception, however, of the reference in the contract to "Two paire halfe paced staires & turned staires vp into the walke," and in a note to the contract that "there is to be both Roomes from the chimnies closed on both sides and one Cross partition in one of the Roomes; beside the stair case," there is no accurate information as to the interior arrangement of the building; and the information as to the arrangement and use of the different parts of the building is so meagre and widely scattered in the scanty records of the time that different persons may well reach different conclusions.

From what study I have been able to make, I am inclined to think that when the building was constructed the space under it on the street level was the market-place, and the first floor, reached by stairs from the

The Story of the

street at either end, was the Exchange, while the upper rooms, on the second floor, were for the courts, the library, and the use of the selectmen. The following are the records and facts I have found bearing upon the matter. The order of the General Court on May 19, 1658, making contribution by the Colony toward the Town House provided that "The place underneath shall be free for all inhabitants in this jurisdiction to make use of for a market forever, without payment of any toll or tribute whatsoever." This language would hardly have been used of a room or an exchange, but was particularly appropriate to the use of that portion of the street under the Town House for a market, for which the space had been used before the building was constructed. It is also to be noticed that when the town allowed the use of this "place" for private purposes, it was never described as the "Exchange." In the first lease made of a portion of it to Robert Gibbs in 1665, the language was a "lease for the Seller under the Town House," and when in 1664 the town provided for a watch-house under the stairs at the east end of the Town House, the space was spoken of as the "Town Seller." An order of the selectmen of July 25, 1664, also indicates that the Exchange was a room in the Town House and not the place under the Town House where the market was held. The order was:

For the more convenient and exspeditious dispatch of Merchants affayres or any other, relateing to strangers and our Inhabitants.

Itt is ordered that the Bell shall be runge att a 11 of y^e Clocke euery workeing day to giue notis thereof to all persons concerned and that the ringer shall be allowed 12^d p. yeare by

Old Boston Town House

every person that commonly resort there vnto and that they may assemble in the Rōme vnder the Towne house, for the space of one hower for the ends aboue expressed.

In 1709 the Exchange was called the "Lower room." May 6, 1709, we find this order:

The Select men do order that no Inclosure or partition be made or Sett up on the Exchange or Lower room under the Town House without their Approbation & consent. And M^r James Maxwell is for bid to Leave open & unlock^d by night the doors of the Stair cases without their order.

At this time the upper rooms were occupied for the courts, the library, and the meetings of the selectmen and other town officers, and therefore the large room below was properly called the "Lower room." The order that the doors of the staircases should not be left open and unlocked at night shows that the Exchange was not the place under the Town House on a level with the street, but the first-floor room reached by these stairs at the top of which were doors opening into the room. The orders for the maintenance and repair of the staircases also show that they were not under the building and sheltered from the weather, but outside of it, at each end, exposed to the weather, so that in time it became necessary to protect them by a covering of lead.

There may have been doors at the bottom of these staircases as well as at the top, but there could not have been doors in the space under the building on a level with the street, for no staircases existed in that space. The purpose of the order of May 6, 1709, evidently was to protect the Exchange, not only by providing that no persons should put up any partitions,

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but also by locking the doors of the staircases, so that it could not be entered by anybody at night.

Again, Sewall records that when he was captain of the Ancient and Honourable Artillery Company, June 2, 1701, the election was in the Town House, and that he "called down the Council out of the chamber and they set their chairs below," indicating that the Council Chamber was on the second floor of the building.

That the courts were held in the second story is shown by various writings and records of the time. In an account of a visit to Boston by John Josselyn, published in 1675, he says that Boston has "a Town-House built upon pillars, where the merchants may confer. In their chambers above they keep their monthly courts."

So Dunton writing of it in 1685 said: "Their Town House is built upon Pillars in the middle of the Town, where the merchants meet and confer every day. In the chambers above they keep their monthly courts." The position of these chambers is made clear by the following order of the selectmen, December 22, 1708:

Ordered that a convenient place be made in one of the little roomes between the two chambers in the Town House convenient for Lodging writeings wth paper, Quill, Inck, pen-knife with other Nessessaryes convenient to be Kept und Lock an Key there for the use of the Select men.

These "little roomes" were obviously used by the selectmen and other town officials, while the "two chambers" were used, one by the governor and council, and the other by the deputies, and in them were also held the colony courts. An examination of the

Old Boston Town House

condition at that time shows that the east and west chambers were large enough for these purposes.

Under the charter of 1691, the councillors would have had ample accommodation in either one of these chambers, and during most of the time the deputies could have been accommodated in either one of the rooms, though it is quite likely that when the number arose to seventy and over, as it did beginning about 1700, the deputies met in the large room below.

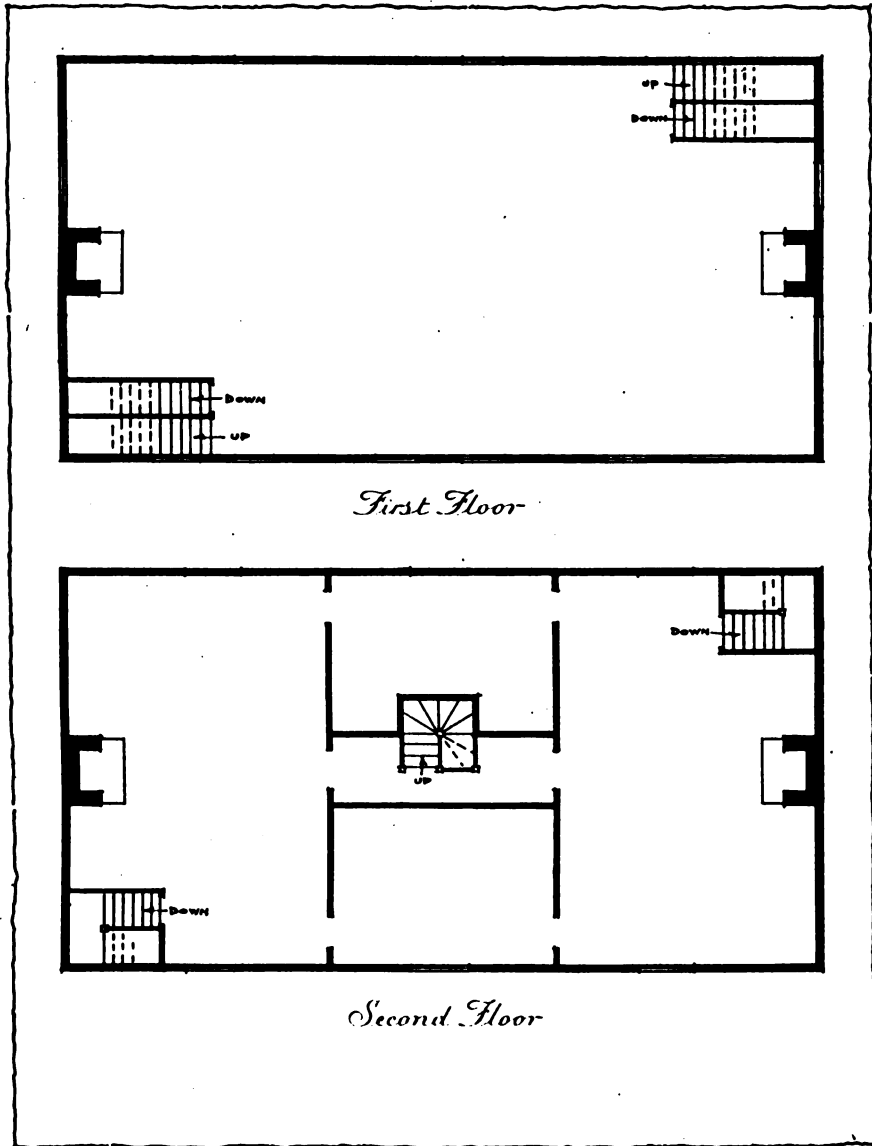
The town meetings were doubtless held in the large room, but the number of voters while the Town House was used was not very large. Sewall records that on May 9, 1698, three hundred and forty votes were cast, which, he says, was the largest vote he had ever known. May 11, 1696, one hundred and thirty-four votes were cast at town meeting; May 8, 1699, three hundred and twenty-three; April 27, 1703, two hundred and forty-four; June 1, 1703, two hundred and six; and April 29, 1709, two hundred and four. I think it probable, therefore, that the lower floor was reached by stairs from the street and was wholly occupied by one large room about sixty-five feet long and thirty-five feet wide, which was called the "Exchange." Here the merchants met and also, perhaps, the General Court, when the council and the deputies met together, as they did at the close of each session, and occasionally at other times. This room was also doubtless used for town meetings and for any large gathering of the townsmen or inhabitants. The second floor was reached from the first by stairs at either end, and had a room at either end, each occupying some-

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thing more than one-third of the entire floor. Between these rooms there was a passageway from the one to the other, and on each side of this was a small room with doors opening into the two end rooms. From the centre of this passageway a flight of stairs led to the roof.

There were chimneys at each end of the building, and fireplaces at each end of the large room on the first floor, and at the end of the east and west rooms on the second floor. The deputies met in the room in the east end and the council met in the room in the west end on the second floor. Sewall notes that Ratcliffe, minister of the Church of England, was granted for the service of the Church "ye East end of ye Town House where ye Deputies use to meet." This room was also used for the library. The records of King's Chapel show that prayers were said "in the Library chamber in ye town house."

The dimensions of these rooms at the east and west ends of the second floor cannot be accurately determined; but they were certainly at least thirty-six feet in width. If they were each twenty-five feet long, there would have been left for the "little rooms" and the passageway between a space of at least fifteen by thirty-six feet, and each end room would have had an area of nine hundred square feet. This area was quite sufficient for the accommodation of the governor and council in one room, as by the Charter the Court of Assistants could not exceed eighteen in number, and in fact only fourteen were elected before 1679. The number of deputies chosen at that period was from thirty to forty, all of whom could have been comfortably accommodated in



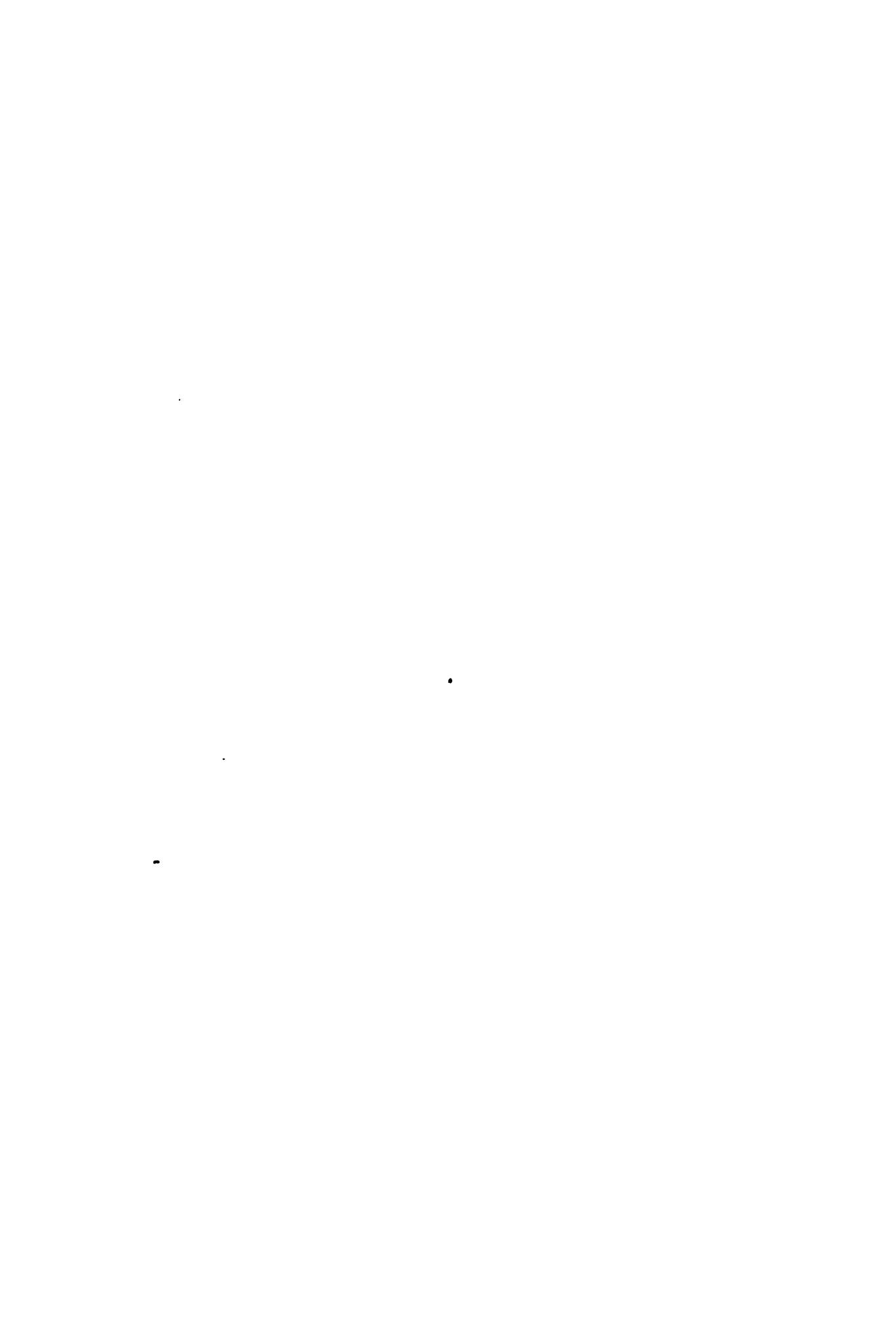
First Floor

Second Floor

Plan of Boston Town House

Old Boston Town House

a room twenty-five by thirty-six feet. Only thirty-three deputies appear to have been returned from the towns to the first General Court held in the Town House May 11, 1659, and at the second session in May, 1660, there were only thirty-five. From a list in the second volume of the New Hampshire Historical Society Collections it appears that from 1658 to 1679, inclusive, the number of deputies who met varied from twenty-nine in 1678 to forty-six in 1669, the average being thirty-nine.



Shops

Under and About the Town House

THE steps which led from the street to the floor of the Town House at the west end left a space under them which was available for a shop, and as the townsmen were thrifty folk they soon began to use this space for revenue.

The town records show that:

June 24, 1661, Itt is Ordered y^t Rich: Taylor shall enjoy y^e shop vnder y^e stayres att y^e west end of y^e Towne-house during his life & his wifes life, paying y^e yearely rent of 30^s., y^e one halfe in mony, y^e other in goods or corne, hee fitting vp y^e s^d shop att his owne charge, & y^e s^d shop to bee left after their death wth all y^e apurtenances to y^e Townes vse wthoutt any consideration from y^e Towne. And y^e reason of taking no more Rent is, because his charge of fitting vp y^e s^d shop amounts to £10.

February 24, 1661/62, Vpon the complaint of Rich: Taylour of the greatnes of his charge vpon the shop at the foot of the Towne house staires, it is agreed that there shall bee an abatement of 10^s. aⁿually vpon the rent formerly agreed the 24 (4) last past.

The selectmen voted as follows:

September 26, 1664, Itt is Ordered that the East end of the Towne seller vnder the Stayer Casse shall be for a watch house for the townes vse. Itt is Agreed in consideratio thereof to Allow Thomas Lake and Hezekiah Vsher £6. p. Annu and to be att the chardge of the present repaire & fitting the s^d seller for the vse befor mentioned, And in case the Towne after 2 yeares vse of the same see cause to giue it vpp into the hands of the parsons befor mentioned of whome the Towne hath rented it, allowing the Chardg they haue ben at deliuering it vp, in good repaire the Rent that shall be recieued to be repayed back againe.

The records of the selectmen state:

February 29, 1665, This day a lease signed for the Seller vnder

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the Towne house to M^r Robert Gibbs, for 51 Yeares, begining the 25 of March last, payeing 5^s. in siluer to the Towne Treasuer one the 1st of March yearely.

August 23, 1669, At a publique meetinge of the inhabitants warned from house to house Vpon a motion of Richard Taylors to haue his Lease of his shop vnder the towne house granted to him for a longer time. It was left to the select men if they saw fit, to agree with him about it.

The selectmen's records show:

November 29, 1669, Accordinge to a vote of the towne the 23 of 6 mo. 1669 The select men agreed with Richard Taylor about his shop vnder the towne house. That s^d Taylor and his assignes shall enjoy the s^d shop for the space of 61 yeares next ensueinge. In consideration whereof he hath now put it into good reaire & paid 7£. as a fine, and is obliged & to keep the same in good reaire & to pay 20^s. p. annum to the treasurer of the towne duringe the said terme.

November 26, 1675, John Taylor, the son and heir of Richard Taylor, assigned to James Maxfield of Boston:

The small shop under the stairs at the westerly end of the Town House (the westernmost shop, under the stairs) paying to the selectmen of Boston 20 shillings a year (10 in lawful money and ten corn or provisions) and to John Taylor five shillings.

In 1677 Henry Phillips opened a book-shop under the stairs at the west end of the Town House in the Taylor shop. Here he published and sold one of Mather's sermons:

Renewal of Covenant the great Duty incumbent on decaying or distressed Churches. A sermon Concerning Renewing of Covenant with God in Christ, Preached at Dorchester in New England the 21 day of the 1 month 1677, being a day of Humiliation there, on that Occasion. By Increase Mather, Teacher of a Church in Boston. Boston, Printed by J. F. for Henry Phillips, and are to be sold at his Shop in the West end of the Town-house in Boston, 1677.

Old Boston Town House

I find no record of any further use of the space under the Town House for private purposes until October 28, 1686, when the records of the selectmen show that such use had been made and was continued. The record is:

Let to John Hayward of Bostone Notary or his Assignes the small Shop or roome that is scituate and beinge in the Towne house, at the westerlie end thereof, late in the tenure and occupation of Nath^l Barnes, as now inclosed he payinge therefore 10^s. p an in mony for the terme of 21 yeares from this 28th. day of Oct^r. 1686 as by Lease thereof doe more fullie apeare.

Benjamin Eliot appears to have had a book-shop under the west end of the Town House in 1699. The "Acts and Laws of His Majesties Province of the Massachusetts Bay in New England" states on its title-page that it was "Printed for and sold by Michael Perry at his shop over against the Town-House, and Benjamin Eliot under the West End of the Town-House, 1699." On June 28, 1703, the record shows that the town "granted to Benj^s Eliot the Shop under the Town House formerly Let to John Howard, Scribener, deceased, for the Term of Seven years from this day at 40 Shill. p. annum, June 28th. y^e dementions are wth. inside 9 foot, 8 inches in length & 4 foot 1½ inches in breadth."

In 1709 the entire space under the west end of the Town House appears to have been devoted by the town to business purposes for revenue. The town records show that on January 24, 1709, it was "Voted. by the Select men that the Sūme of fifteen pounds Sixteen Shillings w^{ch} the Treasu^r Lately recd for Dockage of

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y^e Ship whereof Cap^t Flint is master Shall be Layd out in inclosing & fitting up Shops under the Shead at the westerly quarter of the Town House in order to bring in Rent for the Town." Then follow records of leases of the shops thus filled up as follows:

Aprill 4th (1709). The Select men have this Day Lett unto Mary Bithin the Easter most of the New Shoppes under the Town House at three pounds p Annum, She haveing paid down the first quarters rent in hand and is to pay the Succeeding rent at the beginning of each quarter.

Aprill 18. (1709) The Select men have now Lett to Eliezur Phillips of Boston Booke Seller, the two new Shops at the westerly Corner of the Town House for one year at Seven pounds p Annum from this day.

The renting of shops under the Town House appears to have been profitable to the town, for February 13, 1710, it was "Voted. That the Shead on the South^v Quarter of y^e Town House from y^e middle door as far down as y^e Cellar door be made into Shops, in order to Augment the Town Rents." At a meeting of y^e Sel. men Aprⁿ 1710, it was voted "The Select men have Lett unto M^r Jabish Negus, the Shop on y^e South Side of y^e Town House between y^e Shops of Elizur Phillips & the Shop of Mary Bithin at three pounds p annum to commence the 17th of Aprill curr^t."

April 2, 1711, the selectmen's records show that it was "Agreed to Lett unto Jeremiah Belknap a Shop extending from y^e door way to the So^v corner of y^e Town House w^{ch} is to be Erected there, for the Term of Seven years to Comence the first of June next, and for the first years rent he is to be at y^e charge of building y^e S^d Shop, & to pay ten pounds p annum quarterly

Old Boston Town House

for y^e next 6 years, he to maintain & deliver up y^e Same in Good repaire.”

On July 2, 1711, notices were ordered to be posted for letting the new shops on the north side of the Town House. These shops from their being in the centre of the town were much sought after, and in July, 1711, the space under the Town House appears to have been enclosed on the north and south sides and on the west end by shops, the watch-house being on the east end. Some of these shops were occupied at various times by Henry Phillips, Samuel Phillips, Michael Perry, Benjamin Eliot and Eleazer Phillips, well-known booksellers.

The Town House thus became the centre of the printing, publishing, and book-selling business of the town. About thirty booksellers were located in its immediate vicinity, some of their shops being under the Town House itself, others opposite, either on the street in which the Town House stood, or on the Corn-Hill, between Prison Lane and the meeting-house which stood where the Rogers Building on Washington Street now stands. This appears by the following, among other, imprints of books of the time:

The Doctrine of Divine Providence, opened and applyed. By Increase Mather. Printed by Richard Pierce for Joseph Brunning, and are to be sold at his Shop at the Corner of Prison-Lane next the Exchange. 1684.

An Almanack of Coelestial Motions for the Year of the Christian Epocha, 1681. . . . Calculated for the Meridian of Boston in New England, where the Arctick Pole is elevated 42 Degrees & 30 Minutes. By John Foster, Astrophil. Boston: printed by J. F. for Samuel Phillips in the west end of the Exchange. 1681.

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The Short History of New England, A Recapitulation of Wonderful Passages which have Occurr'd,—First, in the Protections, and then in the Afflictions, of New England. With A Representation of Certain Matters Calling for the Singular Attention of that Country. Made at Boston Lecture, in the Audience of the Great and General Assembly of the Province of the Massachusetts-Bay, June 7, 1694. By Cotton Mather. Printed by B. Green, for Samuel Phillips, at the Brick Shop, at the West End of the Exchange, 1694.

Heaven's Alarm to the World, Or a Sermon wherein is shewed that fearful Sights and Signs in Heaven are presages of great calamities at hand. Preached at the Lecture of Boston in New England : January 20, 1680. By Increase Mather. To be sold by Joseph Browning at the Corner of the Prison Lane next the Town-House, 1682.

An Essay for the recording of Illustrious Providences: wherein an account is given of many Remarkable and very Memorable Events, which have happened this last age: especially in New England. By Increase Mather. Printed by Samuel Green for Joseph Browning and are to be sold at his Shop at the Corner of the Prison-Lane next the Town-House, 1684.

Memorable Providences relating to Witchcrafts and Possessions. A faithful Account of many wonderful and surprising Things, that have befallen several bewitched and possessed persons in New England. Particularly a Narrative of the marvellous Trouble and Relief experienced by a pious family in Boston, very lately and sadly molested with Evil Spirits. Whereunto is added, a Discourse delivered unto a Congregation in Boston, on the occasion of that Illustrious Providence. As also A Discourse delivered unto the same Congregation on the occasion of an horrible self-murder committed in the Town. With an Appendix in vindication of a Chapter in a late Book of Remarkable Providences, from the calumnies of a Quaker at Pennsylvania. Written by Cotton Mather, Minister of the Gospel and recommended by the Ministers of Boston and Charleston. Printed at Boston in New England by R. P. 1689. Sold by Joseph Brunning, at his Shop at the corner of the Prison Lane next the Exchange.

Old Boston Town House

The imprint of the eighth edition of the Bay Psalm Book reads: "Printed for Samuel Phillips at the Brick Shop near the Town-House, 1695;" and of the ninth edition: "Printed by B. Green and John Allen for Michael Perry under the West End of the Town House. 1698." Richard Wilkins, the first postmaster of Boston, opened a bookshop "opposite the West end of the Town-House," and when he published "Man's Chiefe End to Glorify God, by the Rev. John Bailey," it was imprinted. "To be sold by Richard Wilkins, Bookseller near the Town House, Anno 1689."

Repair of the Town House

THE effect of the severe New England climate upon the wooden structure of the Town House was evidently injurious, for in less than ten years after the completion of it, the records show that repairs upon it became necessary. It is interesting to note the careful apportioning of expense to the town, the county, and the province.

In October, 1667, the General Court made an order for the repair of the Town House as follows:

For the necessary, full, & suiteable repaire of the Toune or Court House in Boston, founded by the late Cap^t Robert Keayne, it is ordered by this Court, that the selectmen of Boston shall & hereby are desired & impowred as a co^mittee to see to & order the same wth all convenient speede, the chardge whereof is to be borne & defrajed the one clere halfe by the Treasurer of the country, one fowerth part thereof by the Treasurer of y^e county of Suffolke, & the other fourth part by the Treasurer of the toune of Boston.

Again, in October, 1670, another order was passed for the repair of the Town House, which was as follows:

The Court, being informed & finding that the toune house is very much wanting of repajre, & by reason thereof is very dangerous, judge meete to appoint M^r Thomas Danforth, M^r Anthony Stoddard, & M^r Willjam Parkes, a co^mittee to vejw the same, & make report to this Court of what they judge most necessary is to be don for the so repaying thereof, as all danger may be prevented, & the house preserved.

September 16, 1685, the General Court passed this order:

The Court, considering the necessity of couering the west stajre

The Story of the

case of the toune house with lead,—the wooden couering, being deficient, lett's in the rajne, w^{ch} decays the majne timber thereof,—it is ordered, that it be donn wth all speed, & that the 'Treasurer defray the charge thereof vpon the countrys accompt, & the rather in regard the toune of Boston haue long since couered the east stajre case of s^d house at their oune cost & charges.

Sewall also notes in his diary: "Thursday, September 17, 1685, the Generall Court Voted that the West end of the Town-House be secured with Lead at the Country's Charge."

On November 25, 1693, the General Court passed the following Act:

WHEREAS the town house in Boston, within the county of Suffolk, has formerly been, and is still continued to be made use of for the holding of councils, courts of judicature and other publick assemblies for the whole province, and has been accustomed to be upheld and repaired in part at the charge of the late colony of the Massachusetts, part at the charge of the said county, and part at the charge of the said town,—

Be it enacted by the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

That the charges of repairing the said house be from time to time continued, to be answered and paid in proportion following; that is to say, one-half part thereof out of the publick revenue of the province, one-quarter part out of the treasury of the said county, and the other quarter part out of the treasury of the said town. And the selectmen of Boston, from time to time, as there shall be need, are to take care that the said house be sufficiently repaired, and to lay the accompt of the charge before the governour and council, as also before the justices in quarter sessions, that so orders may be respectively given as well for payment of the part thereof belonging to the province, as that belonging to the county, according to this act.

In 1696-7 the following account was rendered by the town treasurer of Boston:

Old Boston Town House

An Acco^{tt} of money Paid by the Town Treasu^r of Boston by ord^r of y^e. Select men of s^d Town to defray Charges belonging to the Townhouse One halfe part of s^d Charges is to be reimbursed by the Treasurer of the Province by vertue of an Act of General Assembly &c^t

To Cash p ^d William Manly for paveing about the Town House as P his Acco ^{tt}	39 8
To Ditto Manly for new paveing what was taken up in the repaires of y ^e Townhouse	8
The totall	<u>£39 8</u>
One halfe part amounts to	½ 19 14
JAM ^s TAYLOR Treas ^r : for y ^e Town of Boston.	

In due time the General Court voted the necessary appropriation by the following Act:

AN ACCOMPT of disbursements made by the town treasurer of Boston for paving about the town-house in Boston, amounting to the sum of thirty-nine pounds eight shillings, sent up from the representatives, with their vote thereupon that the one-half of said accompt, being nineteen pounds fourteen shillings, be allowed, and paid out of the public treasury, pursuant to an act of the province for repairing of the town-house, was read and a concurrence therewith,—

Voted. (Approved June 9.)

In 1697 the General Court made another appropriation as follows:

Voted, That the Roome in the Town house where the Representatives of this Province meet be altered and fitted up so as to make it more convenient and accomodable, as the Justices and Representatives with the Selectmen of said Town shall direct and appoint . . . the Charge whereof to be paid one halfe out of the publique Treasury of the Province, one fourth part by the County of Suffolke, and the other fourth by the Town of Boston as is provided by an act of this Province for defreying the charge of repairs of s^d. house./ (Approved October 30.)

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Sewall makes note of these repairs in his diary under date of September 8, 1697, as follows: "The Governour and Council first meet in the Council-Chamber, as it is now fitted with sieling, Glazing, Painting, new Floor that brings it to a Level; New Hearth even with it." Also, September 10, 1697: "Twas dark, and a Candle was brought in: Mr. Woodbridge went to Prayer, which is the first hath been made in the Council Chamber since its being very well fitted up and made new. Pray'd that our Land-defiling sins might be pardon'd; and Land-destroying Judgments remov'd. Pray'd that God would be favourably with us at our next Meeting. Court was prorogued to fourth-day Oct' 18. 9. *mane.*"

General Uses which were Made of the Town House

THE Town House was constructed for colony and town uses, and upon its completion was used for sessions of the General Court and of the other courts of the Colony, meetings of the governor and council and business of other colony officers, and the keeping of the colony records. It was also used for all the town business, including not only town meetings, but meetings of the selectmen and other town officers, the keeping of the town records, the public town library, and as we have seen the space under it was let for shops for town revenue. But the Town House, being the only large building in Boston or the Colony except meeting-houses, and the only secular public building, was also used for a variety of other purposes, such as an armoury for the storage of arms and munitions of war; a granary for the storage of grain received in payment of taxes, for the storage of town and colony property; a drill place for the Ancient and Honourable Artillery; for occasions of festivities and of public preaching and prayer, and for any other public purpose which could not be well accommodated elsewhere.

The Colony Treasury was in the Town House, and worn-out bills of credit which were returned to the treasury were there destroyed. Sewall records that on February 6, 1709, there was a "treat to the Governor at the Green Dragon which cost five shillings a piece," and then he says: "After our return to the Council-Chamber, Burnt near Six Thousand pounds of decay'd

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Bills. When the Candles began to be lighted I grew weary and uneasy, and even slip'd away without drinking." The Commissioners of the United Colonies met in the Town House to deliberate upon measures for defence of the colonies in the Indian wars; here the royal commissioners, who brought the commands of the King to the Colony, met the General Court; and here Andros caused the first religious service according to the liturgy of the Church of England to be held.

Dunton writes that upon his arrival in Boston in 1685, he had "an invitation to dine with the Governor and the Magistrates in the Town Hall. The entertainment was very rich and noble," &c.

On September 17, 1695, Sewall notes in his diary that "Gov^r. Bradstreet this day sent the Halberts, Copies of the Records, and a Loadstone belonging to the Publick, to the Secretary, who caus'd them to be lodg'd at present in the Town-house Chamber; where I saw them when went to write Letters to Capt. March."

On September 16, 1696, he notes: "Keep a day of Prayer in the East end of the Town-House, Gov^r., Council and Assembly. Mr. Morton begun with Prayer, Mr. Allin pray'd, Mr. Willard preached—If God be with us who can be against us?"

On May 26, 1697, he notes: "Election-day: Capt. Foster Guards the Governour to the Town-House, where the Court had a treat. Mr. Danforth preaches."

On May 4, 1702, he notes: "Artillery Comp^a Trains, Rainy day; So we exercise on the Town-House in the morn." This probably means that they drilled in the "Exchange" or large room on the first floor of the



Simon Bradstreet

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Town House, as at that time the space under the Town House was so occupied by shops that there was not sufficient space for military exercise.

The Town House was also used for festivities. Sewall records: "February 6, 1704, Tuesday, Many go to the Council Chamber and there drink Healths on account of its being the Queen's Birth-Day." Also "Cousin Jer. Duñer, Philosophiae Dr., going out of the Town-house about 8 at night, fell by reason of the Ice, hit his left Temple against a piece of Brick-batt, Cut a great Gash at which much blood Issued: He was so stun'd as to be as dead when Mr. John Winthrop took him up." Again, on February 6, 1708, he notes: "Queen's Birthday, I could not find in my heart to go to the Town-House; because hardly anything is professedly there done but drinking Healths."

Captain Keayne in his will contemplated that some part of the Town House might be used for the town granary, and it appears that it was thus used. On October 29, 1678, the selectmen ordered that "Robert Williams is allowed 40 Bush. of Indian corne and three rates for y^e yeare past beinge all 2^{ld}. 10^s for reccaueing of graine into y^e towne house & deliuering it out from June 1676 to June 1678." I think this granary was in the space under the Town House, though I find no certain evidence of it.

The Town House was a convenient place for making business appointments, and the practical Puritans often combined business with religious observance. Sewall notes: "Mr. Willard not seeing cause to go to the Town-House to pray, I who was to speak to him refrain also."

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The Town House was the point from which distances were measured. On July 14, 1707, Sewall notes that "Mr. Antram and I, having Benj. Smith and David to wait on us, Measured with his Wheel from the Town-House Two Miles, and drove down Stakes at each Mile's end, in order to placing Stone-posts in convenient time." August 7, 1707, he again notes: "Peter Weare set up the Stone Post to shew a Mile from the Town-House ends."

Use of the Town House by the Town of Boston

THE important use of the Town House by the town of Boston was for town meetings. During the early part of the period in which the Town House stood, the inhabitants of the town dealt with many matters in town meeting which, after the town had become more populous, were delegated to the selectmen or other officers of the town. It was also the custom of the inhabitants of Boston during this entire period to debate and consider public matters relating to their part in the affairs of the Colony at town meetings; for instance, they annually appointed a committee to prepare instructions for the deputies whom they elected to the General Court, and when the matter of giving up the Charter was under discussion by the General Court, the freemen of the town debated and voted in a town meeting in the Town House upon the question of whether the Charter should be surrendered. Indeed, the town meeting was at that time the dominant force in political life, and public opinion was shaped and made effective by debates in the Town House upon all public matters. Town meetings were usually held at nine o'clock in the forenoon. The following was the usual form of order by the selectmen to warn a town meeting:

Ordered that the Town Clerk Issue forth warrant to the Constables to warn a Town Meeting to Convene at the Town House on Monday the 14th of March next, at Nine of the Clock in the fore noon, to choose Selectmen and other Town officers & to Grant

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money to defray y^e Town charge, and to consult and Agree ab^t. any other matter or thing w^{ch} may be for the Benefit of the Town.

The first town meeting in the Town House probably was held on the fourth day of March, 1658-9. At this meeting, which the record shows was held upon public notice from house to house, there were chosen "seven Selectmen, six Constables, five Surveyors of high wayes, one Packer of Fish and Meate, two Clerkes of the Markett, two Sealers of Leather, and two Water Bayliffs." This order was then passed:

Itt is ordered that in case of fire breaking outt in any parts of this towne, which may possibly threaten ruine to a greatt part thereof iff not seasonably prevented by pulling downe some house or houses to that end; Itt shall therefore bee lawful for the major part of the magistrates, Comissioners, and select men, that shall then bee present att the fire, or for any three of them mett together, and two of them concurring, to cause any house, or part thereof, to bee, puld downe; And that whatever house or part thereof bee puld downe by their order, shall againe bee repayred and made good by the towne to him or them who shall so have their houses puld down or impayred.

At the second town meeting held in the Town House, on the thirteenth day of June, 1658-9, the following order, showing how carefully the inhabitants secured themselves against persons coming into the town without leave, was passed:

Whereas sundry inhabitants in this towne have nott so well attended to former orders made for the securing the towne from charge by sojourners, inmates, hyred servants, journeymen, or other persons that come for help in physick or chyrurgery, whereby no litle damage hath already, and much more may accrew to the towne. For the prevention whereof Itt is therefore ordered, that whosoever of our inhabitants shall henceforth receive any such persons before named into their howses or employments without

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liberty granted from the select men, shall pay twenty shillings, for the first weeke, and so from weeke to weeke, twenty shillings, so long as they retaine them, and shall beare all the charge that may accrew to the Towne by every such sojourner, journeyman, hired servt., Inmate, &c., received or employed as aforesaid. Provided, alwayes, that if any person so receiving any shall, within fiftene dayes, give sufficient security unto the select men that the Towne may be secured from all charges that may arise by any person received, and that the persons so received bee not of notorious evill life and manners, their fine abovesaid shall bee remitted or abated according to the discretion of the select men. And itt is further ordered that if after bond given by any, they give such orderly notice to the select men that the towne may bee fully cleared of such person or persons so received according to law, then their bonds shall be given in againe.

At a meeting held at the Town House on the twentieth day of August, 1660, the following order, which is interesting as bearing upon the labour question, was passed:

Whereas itt is found by sad experience that many youthes in this Towne, being put forth Apprentices to severall manufactures and sciences, but for 3 or 4 yeares time, contrary to the Customes of all well governed places, whence they are incapable of being Artists in their trades, besides their unmeetenes att the expiration of their Apprenticeship to take charge of others for government and manuell instruction in their occupations which, if nott timely amended, threatens the welfare of this Towne.

Itt is therefore ordered that no person shall henceforth open a shop in this Towne, nor occupy any manufacture or science, till hee hath compleated 21 years of age, nor except hee hath served seven yeares Apprenticeship, by testimony under the hands of sufficient witnesses. And that all Indentures made betweene any master and servant shall bee brought in and enrolled in the Towne's Records within one month after the contract made, on penalty of ten shillings to bee paid by the master att the time of the Apprentices being made free.

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The following records show the usual method of instructing the representatives or deputies in the General Court:

14 May 1677. At a meeting of the freemen of this towne upon lawfull warninge It is Ordered that Elder John Wiswall, Eld^r Edward Raynsford, Cap^t Joshua Skottow, Capt John Richards & Mr. Elisha Cooke, bee a Comittee for drawing vp Instructions for the Deputies of y^e Generall Court, to whome y^e select men are to ioyn^e, for that end.

19th May. At a meetinge of the fores^d. Comitee the followinge instructions were agreed upon & y^e. 21th of May were presented to the freemen & approued of by them to be recomend. to y^e. Deputies.

These instructions covered seventeen different matters, such as the making of pewter ware, the form and manner of taking oaths, increasing the number of deputies from Boston to the General Court, observance of the Sabbath, repeal of laws as to collection of book debts, &c. The following instructions, however, were among the most important, and are found repeated in the instructions to the deputies for several years at this period.

That in the exercise of yo^r. legislatiue powre you haue respect to y^e. Charter or Patent & that you make noe lawe or ord^r. repugnant thereto.

That in all other matters that may come vnder yo^r. consideration you passe nothinge that may in the least measure haue any tendancie to y^e. infringm^t. of our liberties & priuiledges whit^r. ciuill or eclesiasticall granted us by our Charter.

In January, 1684, a town meeting was held to see whether the town desired the Colony to give up the Charter as required by the King. It was an important occasion, and the record of what was done is as follows:



Increase Mather

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Vpon readinge and publishinge his Majesties Declaration dated 26th of July 1688 relateinge to the Quo Warranto issued out against the Chart^r. and priueledges claymed by the Govern^r & Company of the Massachusetts Bay in New England, It beinge put to the vote, Whether the Freemen were minded that the Generall Court should make a full submission and intire resignation of Our Charter & priuiledges there in granted to his Majesties pleasure as intimated in said Declaration now read.

The Question was resolued in the Negatiue, Nemine contradicente.

The Rev. Increase Mather stoutly opposed any surrender or concession, and stated the case in the following language:

As the question is now Stated, *whether you will make a full Submission and entire Resignation of your Charter and the Priuiledges of it unto his Majesties Pleasure*, I verily Believe We shall Sin against the God of Heaven if we vote an affirmative unto it. The *Scripture* teacheth us otherwise. We know what Jephthah said, *That which the Lord our God has given us, shall we not possess it?* And though *Naboth* ran a great Hazard by the Refusal, yet he said *God forbid that I should give away the Inheritance of my Fathers*. Nor would it be *Wisdom* for us to Comply. We know, *David* made a Wise Choice, when he chose to fall into the *Hands* of God rather than into the *Hands of Men*. If we make a *full Submission and entire Resignation to Pleasure*, we shall fall into the *Hands of Men* Immediately. But if we do it not, we shall keep ourselves with his Providence; and who knows what God may do for us?

The selectmen held monthly and sometimes weekly meetings in the Town House. Their manner of conducting business is shown by votes passed by them. On December 29, 1701, the following vote was passed:

Voted that the next monethly meeting of the select-men begin at one of the clock precisely and those of the Select men that Exceed a quarter of an hour beyond that time Shall forfeit Six

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pence. And that at each monethly meeting here after One of the Select-men shall be moderator for S^t meeting & that they take it by turns beginning at the Eldist and So Successively, and that they begin S^t meetings wth prayer.

Again, March 29, 1708, this vote was passed:

The Select men do agree to meet together ab^t. the Town affairs every Monday at Six of the Clock in the afternoon, and that each of them who Shall neglect to Attend by the Space of halfe & hour beyond or passed the S^t. time appoynted Shall forfeit and pay the Summe of four pence for every Such Neglect. S^d fines to be disposed of At the direction of the Select men.

The records of the selectmen are interesting as showing with what diligence and detail they administered town affairs. They provided for the sweeping of the chimneys in the town, a matter of great importance at that time on account of the danger of fire; they received lists of estates for taxation; entertained applications for poor relief; appointed watchmen; leased the town lands, docks and wharves; received and settled bills against the town; provided for keeping streets free of obstructions to the flow of surface water; authorized the erection of posts before warehouses, and required the taking down of posts and fences which interfered with the use of the streets; approved keepers of houses of public entertainment; appointed persons to ring the bells at the Town House and meeting-houses; perambulated the boundaries between the town and other towns; issued warrants for the collections of taxes; gave leave to plant upon the town lands; admitted inhabitants into the town; fined persons for opening shops in town without liberty; appointed pound-keepers and fixed their fees; fixed the indentures of apprentices; au-

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thorized the construction of wharves by owners of lands upon the sea; permitted the taking away of fallen wood upon common lands; put the children of idle persons out to service; looked after the keeping and use of the town engine and appliances for putting out fires; regulated the digging up and carrying away of turf or earth on the Common; and in general attended to all the concerns, or as they were then termed the "prudential affairs," of the town.

The following votes by them are characteristic:

In answ. to the motion of M^r. John Hubbert, the Select men do admit that S^d. M^r. Hubbert may have & make use of the materialls for Wire-drawing w^{ch}. are now in the Town House garret he giving rec^t. for the Same, obliging himselfe to return the Same upon demand.

Allowed Samuel Clough 12*s*. 8*p*., his acco^t for mending the Town House Clock.

Liberty is granted to M^r. Eneas Salter & he is ordered to Stop the Cart way in the broad Street below the Town House for the Security of the paveing which he is now ab^t. to accomplish there.

As early as 1663 many of the streets in Boston were paved with cobblestones, then called "pebbles," but only a small strip in the middle of the street was usually paved, and the sidewalks were only paved wide enough for one person to walk on them.

Widdow Thomas fined 5^s. for permitting fier to be carred forth he^r howse in an vnlawfull vessell not couered, being breach of Towne order.

Nathaniell Miles & Thomas Alline ar each of them fined 5^s a peice for breach of a Towne order in openinge shopps in the Towne before they weare regularly admitted inhabitants in the said towne.

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Mr. John Hayman hath libertye to make vse of the streett from Goodman Read house towerdes the watter side for to accomodate his trade leaueing sufficient way for Carts, duringe the Towne pleasuer.

Orders for the Bellman:— You are to walke through and about the Twne from 12 clocke at nighte to 5 in the morning and if yo^u see any extreordinary light or fier in any house o^r vesselles you are to repaire to the same. And as the danger may be soe giue notis of the same. If yo^u see any light in any Vessell att any of the dockes or Creekes, Command them Oute, And speake to all houses wheare yo^u see any light to haue a care of them, except yo^u know the occation of theare keping the said lighte.

Itt is Ordered that Matthew Coy be allowed £10. out of the Towne Treasuery for his Chryrougery in the healinge of William Ockington, thighe.

Itt is Ordered that Doctor Stonne be allowed £3. 14^s. out of the Towne Treasurye for ministring phissick and Chirurgery to Goodman Fauor att Rumny Marsh.

Hennery Rayner is hereby orderedd to attend the yoakeing & ringing of Swynne belonging to the inhabitants of the Towne of Boston, and to aseize all forfeitures that shall arise by swine not being yoaked and ringed.

John Dawes is ordered to ouer see the youth at the new metting house, that they behaue themselues reuerently in the time of diune worship, and to act according to his instructions therein.

Vpon Information of the necessitye and Inability of the North end of the Towne to repaire there metting house, wee iudge mett to allow £40. out of the Towne Treasuery towerdes the same.

Mr Jones sent for by the Select men for keep^e a schoole and being required to performe his promise to the Towne in the Winter to remoue himeselfe and famyly in the springe: And forbidden to keepe schoole any longer.

At a meeting of the Select men Jan^{ry} 28th 1706: Ordered that Complaint be given in unto the Justices now Sitting in Q^r. Session Ag^t. John Gerrish for Incloseing eighteen foot & halfe in

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Length & two foot eight Inches in Breadth of the Street or highway on the South Side of the Town House.

John Hubbert hath not liberty to abide to continue in the Towne, vnles he serue 3 yeare to perfect hime in the trade of a Joinner.

Steuen Brace fined 20^s. for the contempt of the Townsmen order in their restriction the last metting day; And further forbidden to worke any other worke then Jorny worke for 12^{mo}., on penaltie of 20^s. p. month.

Mr Will Howard hath liberty to keep a wrighting schoole, to teach childeren to writte and to keep accounts.

Whereas it is found by experience that in case of fire breakinge out in this towne, the welfare thereof is much indangered, for want of a speedy supply of water; It is therefore ordered that after the first of March next, and soe forward to the first of Noeuember in euery yeare. Euery Inhabitant in this towne shall at all times duringe the said terme haue a pipe or a hogshhead of water ready fild with the head open at or neere the dore of their dwellinge houses and ware houses vpon the penaltie of 5^s. for euery defect.

Agreed with Thomas Matson sen^r. to looke for the towne clocke and keepe it in good repaire from the first of March next for one yeare next ensueinge, & to haue 10^s. for his paines about it.

Agreed with Giles Dyer for keepinge of the towne clocke for ye yeare ensueinge, for w^{ch} he was to be allowed 6 pounds in mony, or other pay equivalent beside his owne town rate.

Thomas Farny is apynted to ringe the Bell at the North Meetinge at nine of y^e clocke at night & fiae in morninge in y^e roome of Goodman Barber who is by age disenabled in y^e seruise, & to receauc his salary.

Ordered that warrant be given to a Constable to leauie by distresse vpon y^e estate of Alexand^r Calman shoemaker the sume of 20^s. for openinge of a shop in y^e towne contrary to an Order thereof, w^{ch} was done by Jabesh Salter Constable, who disttrained Fiue of shooes, aprized by Sydrak Simson & John Meriam at 20^s.

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Giuen a warrant to ye Constable to leaue 2^s. vpon Francis Cooke for ridinge in his cart through y^e streete.

Libertie is granted to the Widdowe Castle to entertaine Lodgers Francis Hudson haueinge ingaged for y^e obseruation of good ord^r in the Family.

Libertie was granted to Mr Pet^r Serjeant to set vp a Lime kilne vpon the lay hill neere Fox hill, If it be done with the aduice & approbation of Deacon Eliott.

Granted to Thomas Pecke sen^r 10 loade of Crooked Timber in Muddy riuier Coñon land such as Deacon Eliott shall approue of & vpon such termes as they can agree for, he beinge willinge to give for it as he buyes the like of Deacon Eliott or any other men.

Let vnto Joseph & Benjⁿ Williams the priuiledge of a Ferry from Bostone to Wenesemet, for 3 yeares from y^e 25th of March next, they or either of them payinge to the treasurer of this towne for the vse of y^e Towne 8^{ld}. p. ann. in mony. And Transportinge the Honrd Majestrates Ferrige Free, accordinge to form^r custome.

Ordered y^t noe psn shall annoy the street by wast water from their pumps or otherwise upon the penalty of 20 shillings & 20 p. moneth untill the annoyance be removed.

The Town House as the Place of Posting Notices and Publishing Laws

THE regulations of the town as to public matters were posted in the Town House. March 15, 1672-3, the selectmen ordered—

That a note set vp vnder the Towne house vpon one of y^e pillars, concerninge the price of wheat shall be suffitient notice to y^e Bakers to size their bread by accordinge to Law.

And vpon the first Monday of evey moneth the men y^t. set the price of wheate shall set up such a note & the words after notice given in page 9 the 2^d line may be left out of y^t. lawe.

The colony laws were also published at the Town House by sound of drum and reading.

The “Body of Liberties” of 1641, which was the first colony code of laws, and the subsequent laws of each year were thus read and made known to the people upon their adoption by the General Court. In 1673 the General Court ordered that all laws and orders of every session thought fit to be published be “read in the Markett Place at Boston, vpon the fifth day, being a Lecture Day, wthin the ten days after the end of such sessions, which being performed is and shallbe accounted sufficient publication.”

The Royal Declaration of July 26, 1688, of the proceedings in the English courts against the Charter was published in the Colony as provided therein: “by being posted on y^e Exchange in Boston.” The Peace of Ryswick was proclaimed at the Town House December 10, 1647. Sewall notes it as follows: “Mr. Jn^o Willard brings the Order for proclaiming the Peace here,

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which was done between 3 and 4. p.m. Eight or 10 Drums, Two Trumpets: Prisoners released."

On October 30, 1708, Samuel Marion petitioned the General Court saying he had for above twenty years past "been Improved on all publique Occassions to beat the Drum vz Laws, Acts, proclamations &c. and a very rare thing that any other Drum^r was Improved;" wherefore he asked for ten pounds, which he estimated would be less than twelvecence a time for his services. He was allowed forty shillings "for his service several years in beating a drum at the publishing of laws and proclamations etc."

On March 15, 1700-1, the council records show that Mr. Sheriff Gookin was allowed £3 for his expenses in publishing the Acts; and in 1726, £7 13s. 6d. for cash paid for beating drums and for his own service in publishing the Acts.

It was from the Town House that Queen Anne was proclaimed upon her accession to the throne after the death of William, in 1702. The information of the king's death and of the accession of Queen Anne came to Boston by the way of Newfoundland, and was received May 28, 1702. Sewall's account of the matter is interesting.

Burrington from New-Found-Land brings Prints of the King's death March, 8, at 8 am. Queen's Speech to her Lords at S^t James's. Lords Spiritual and Temporal, their Address; Queen's Speech to the Parliament; Several Addresses; and at last the Gazette containing the Proclaiming the Queen, came to Hand: Then we resolv'd to proclaim her Majesty here: Which was done accordingly below the Town-house. Regiment drawn up, and Life-Guard of Horse; Council, Representatives, Ministers, Justices,

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Gentlemen taken within the Guard; Mr Secretary on foot read the order of the Council, the Proclamation, and Queen's Proclamation for continuing Commissions. Mr Sheriff Gookin gave it to the people. Volleys, Guns. . . . Proclamation was made between 3 and 4.

The ministers did not like it because the General Court went before them in the ceremonies of making the proclamation. Sewall notes on June 1, 1702:

Had much adoe to persuade Mr. Willard to dine with me, Said ministers were disgusted because the Representatives went first at the Proclaiming the Queen; and that by order of our House. But at last he came: I went for him, leaving my Guests.

It was also in the Town House that the allowance and disallowance of Colonial Acts by the English government under the Charter of 1691 were published. On April 26, 1699, Sewall records that—

Mr. Secretary waits on the L^t. Gov^r. and comes into the Council-chamber after the Adjournment in the evening, and tells Mr. Winthrop, Mr. Cooke and me that the Act for Courts is disannulled and that of the Colledge, &c: so that our Court is like to die and sink in the midst. The Lord be our King, and Lord, and Law-Giver. Pardon our Court-Sins, and sanctify our frequent Deaths.

The next day Sewall records that "Drum is beat, and Allowance and Disallowance of the Acts is published, L^t. Gov^r. and Council standing in the Gallery. Great many Auditors below."

Again Sewall records: "Satterday, Sept^r 25, The Queen's Birthday is celebrated by the Captains of the Frigots and sundry others at Noddles Iland. King and Council's Proclamation of Nov^r 6. last, was published by beat of Drum throw the Town to hinder their making Bonfires in the Town however."

Use of the Town House as the Place of Public Records

THE Town House was the place where the public records of the town and Colony were kept. Prior to November, 1647, there does not appear to have been any special provision for keeping the colony records, but at a General Court held November 11, 1647, it was provided that—

To y^e end all records, wills, births, letters, & oth^r instrum^{ts} w^{ch} are of special & publike concern^t, may be safely p^{se}rved & imp^{ro}ved for y^e good of p^{re}sent & succeeding ages, it is ord^{er}ed by y^e Co^{ur}te, & y^e authority thereof, y^t forthwth y^r be, by direction of y^e audito^r gen^lall, a strong presse made of very firme oake planks, wth r^{ab}bit ioyn^{tes} one into anothr, about 6 foote high, 5 foote long, 3 foote broad, fro^m out to out, well bound, wth 3 strong locks, of sev^{er}all workes, y^e keyes w^of to remaine in y^e hand of y^e Gov^{er}n^r (one), y^e Secretary (one), y^e Record^r (one), w^{ch} shalbe chosen fro^m yeare to yeare; in w^{ch} presse y^r shalbe div^{er}s^{er} coberds, for sev^{er}all uses, wth sup^{er}scriptions, for y^e more ready recourse to any thing contained y^rin; w^{ch} presse shalbe kept in some place convenient, at Boston, by direction of y^e Gov^{er}n^r for y^e time being, fro^m time to time, till y^e Gen^lall Co^{ur}te take furth^r ord^{er}.

This "presse" was doubtless placed in the Town House upon its construction, and there the records were kept during the charter period in the custody of Edward Rawson, who became secretary in 1650. After the revocation of the Charter Rawson appears to have kept the records in his custody, probably not taking them away from the Town House, but keeping the key of the place where they were kept in his own possession. The following records, now in the Massachusetts Archives,

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show the attempts by the governor and council to
obtain the records from Rawson:

At a Councill held in Boston New England on Wednesday the
Eight day of December 1686

Present

The Hon ^{ble} Joseph Dudley Esq ^r . President	
William Stoughton	John Usher
Wait Winthrop	Barth ^o Gedney
Richard Wharton	Jonath ^a . Tyng.
Edw ^d . Randolph.	

Ordered That Wait Winthrop Esq^r, Simon Lynd Esq^r, Benj^a Bullivant, M^r Isaack Addington and M^r Daniel Allen be a Com^{tee} wth the Sec^{ry} to receive & sort and form the Records of the Country (now in the hands of M^r Edward Rawson late Sec^{ry}) that so they may be apt and ready for Service, and that the persons above named be all sworn to the faithfull discharge of their trust in this matter, and to the end it may be forthwith proceeded in, M^r Lynd and M^r Bullivant are Impowred and hereby Ordered to take the Same from M^r Rawson to morrow, and remove them in the posture they are now in, into the Library Chamber and that there go forth a Strict Warrant to M^r Rawson to deliver them accordingly, and it is further Ordered That two Locks be put upon the Office where such papers shall be Lodged, and that M^r Bullivant or such other person as M^r Randolph shall depute to that Service, shall keep the Key of one of the Locks and Cap^t. Winthrop M^r. Lynde or M^r Addington the other./

Of a Councill held at the Councill Chamber in Boston y^e 3^d
day of february 1687, the record is—

Present

His Ex^{cye} S^r Edmund Andros Kn &c:

Joseph Dudley	}	John Hincks	}
W ^m Stoughton		Nath: Clarke	
Rob ^t Mason		Edw ^d Randolph	
Tho: Hinckley		ffranc: Nicholson	
John Usher		Sam ^{ll} Shrimpton	
Barth: Gidney		W ^m Browne	
Esqrs		Esqrs	



Emory Walker R.S.

Sir Edmund Andros

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Forasmuch as the severall Orders formerly made for taking an account of the publiq Records of the late Massathusetts Collony have not beene attended that the same might be putt into the Sēcryes Custody and all persons have recourse to them as Occasion Ordered that M^r Jsaac Addington and M^r John Herbert Coward be and are hereby desired and authorized in the presence of M^r Edward Randolph Sēcry and M^r Edward Rawson the late Sēcry or some one in his behalfe to take an account in writeing of all the said Records and that they beginn the same on Tuesday next and continue day by day about the same till completed and that then all the said Rccords be delivered into the hands and Custody of the said Sēcry and the account thereof by them taken forthwith returned to this board under their hands.

By Order in Councill &c

JOHN WEST D *Sēcry*

Feb^{ry}. 1687. Accompt of what time was expended by the Committee in overlooking Sorting and disposing into their proper places the Bookes Files Papers &c. belonging to the Publique Records of the late Massathusetts Colony, In pursuance of an Order from his Ex^{cy}. in Councill dat^d. 9^d Feb^{ry}. 1687.

Being Seven dayes in attendance upon the
said worke and drawing forth a List &
Accompt thereof } £3:00:00

This humbly referred to yo^r. Ex^{cy} in Councill

By yo^r. Ex^{cy}s. most humble Servants

Is^a ADDINGTON

Jn^o. HERB^r. COWARD

At a meeting of the Councill on Thursday the 4th of February 1686./7

Present

His Ex^{ce} S^r. Edmond Andros Kn^t Governour

Joseph Dudley	}	Richard Wharton	}
William Stoughton		John Usher	
Walter Clarke		John Walley &	
Wait Winthrop		Edward Randolph	
	Esq ^{rs}		Esq ^{rs}

f 112 1

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Whereas by an Order of the late President & Councill dated the 8th day of December last It was ordered That Wait Winthrop, Simon Lynds Esq^{rs} Benjamin Bulliuent, M^r. Isaac Addington, & M^r. Daniel Allin be a Com^{tee} with the Secretary to receiue sort and form the Records of the Country (now in the hands of M^r. Rawson, late Secretary,) that they may be ready for Seruice, Enjoyning the s^d. Com^{tee} to be Sworn for the faithfull discharge of their trust inpowering, & ordering, M^r. Lynd & M^r. Bulliuent to take the same from M^r. Rawson, the next day following, & to remoue the same, (in the posture they find them) into the Liberrary Chamber.—In pursuance whereof it is hereby Ordered That the s^d. Com^{tee}. do forthwith enter upon the effectual execusion thereof, bringing them to ye Office provided for them & Mr Rawson late Sec^{ry} to b assisting in Sorting & disposing them accordingly./.

The committee rendered their account for their ser-
vices, and also rendered the following account, the
original of which is in the Massachusetts Archives, for
their sustenance while engaged in the work:

To Sundries att y^e Town house by order of M^r Randall Eq^r.
feb: y^e 9 1687

	<i>£</i>	<i>s</i>	<i>d</i>
To Bread and Sidor	00	01	10
To a hand of Porke and turnupes	00	02	00
To a Loyne off uealle	00	03	00
ditto to Siddor and bread	00	00	07
12 to alle and bread	00	00	08
17 to alle and bread	00	00	08
to bread and alle	00	01	00
y ^e Sum	00	09	09

p^r GEORGE MONCK

Feb^{ry}. 1687.

Rawson finally gave up the records to the new gov-
ernment, as appears by the following council record
from the archives:

Old Boston Town House

Att a Councill held att y^e Councill Chamber in Boston on tuesday ye 6th day of March 1687 *present*

His Excell^y. Sr Edm^d. Andros Kn^t: &c

Joseph Dudley	}	Esq ^r s	Jn ^o Lathrop	}	Esq ^r s.
W ^m . Stoughton		Nath ^l Clarke			
Jn ^o . Winthrop		Rich ^d . Arnold			
Waite Winthrop		Edw ^d Randolph			
Jn ^o . Usher		ffranc Nicholson			

Upon Reading this day in Councill y^e Reporte made by Edw^d Randolph Sec^ry Edw^d Rawson Jsaack Addington & Jn^o. Herbert Coward together with ye account by them taken of ye publique Records of ye late Massethusett Collony—pursuant to an Ord^r of this Board beareing Date y^e 3^d of ffebruary past Ordered that ye s^d Records be forthwith taken into ye Custody & Charge of y^e Sec^ry & Kept with ye other Records of this Dominion in the Sec^rys office where all psons may have recourse to them as occasion & that ye Key heitherto Kept by M^r. Rawson of ye place where y^e sd Records are be forthwith deliuered to ye sd Sec^ry.

By Ord^r in Councill

On March 5, 1687, Sewall notes: “The Massachusetts Books and Papers are fetcht away from Mr. Rawson’s to the Town-House by Mr. Lynde and Bullivant.”

Later, under the Andros government, the following order was made for the bringing of the records from Plymouth, New Hampshire, and other parts of the Province to Boston, and placing them in the Town House, or, as it was called under that government, the “Council House.”

Att a Councill held att the Councill Chamber in Boston on Wednesday the 25th day of May 1687.

Ordered: That all publicque Records in the last Governments now annexed under this Dominion be brought to this Towne and putt into the Custody of the Secr^{ty} or his Dep^{ty}.

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Upon the overthrow of the Andros government in 1689 the provisional government, under Bradstreet and the Council for the Safety of the People and Conservation of the Peace, took possession of the records, which were in the secretary's office under the Town House.

On April 23 the following order was passed:

Boston 23^d April 1689 At the Council for the Safety of the People and Conservation of the Peace

Ordered that M^r Peter Sergeant, M^r John Eyre, M^r Adam Winthrop, and M^r John Foster be and are appointed a Committee to overlook and take an Acc^{tt} of the publick records and papers now under Seisure to make their Report to the Council.

On April 26, 1689, the following order was passed:

Boston 26th April 1689 At the Council for the Safety of the People and Conservation of the Peace

Ordered, that the public Office and Writings under the town House late in the keeping of Tho^s Dudley be and are Comitted unto the present care and charge of Isaac Addington, & M^r. Peter Sergeant, M^r Nath Oliver and M^r John Eyre, (appointed a Committee to inspect the publick writings) are desired to Supervise, and Overlook the Records and papers in that Office in what Order they are.

Later in 1689, John West, who had been secretary under the Andros government, claimed that his private papers were mingled with those of the Colony and had been seized with them, and asked that his papers be returned to him, and the following order for that purpose was then passed:

At the Convention of the Govern^r. and Council, and Representatives of the Massachuset Colony, in Boston, Tuesday the third of December 1689 convened by Order of the Govern: and Council upon the Arrival of a Ship from London.

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[December] 14th [1689].

In Answer to the Motion of M^r John West, M^r Peter Sergeant M^r John Foster, M^r Adam Winthrop, and M^r John Eyre (the Committee formerly appointed to overlook and take an Account of the Publick records, Book's, and papers seized in the Secretary's Office upon the Revolution) are desired and Appointed to revise, and examine the Said Book's papers, and Writings and to make a list of any that do belong to M^r Wests private, & particular concerns, and to Seperate the Same, making their report thereof to the Council, that they may be returned to S^d M^r West. This Past by the Council.

The records and papers in the Town House, which were taken into the possession of the provisional or Bradstreet government, upon the overthrow of the Andros government in 1689, doubtless included records and papers which Andros had taken from the other colonies and placed in the Town House, or, as he termed it, the Council House. The greater part of these, if not all of them, were from time to time returned to those colonies upon their application to the provisional and succeeding government, but the Massachusetts Colony records and papers and some of the records and papers of the Andros government, and the town records and papers remained in the Town House until its destruction by fire in 1711. After the construction of the new Town House, or, as it is now called, the Old State House, in 1718, such of these records and papers as were not destroyed in the fire of 1711 were doubtless placed in that building, and the subsequent town and colony records kept there. In 1747 this building was also burned, and some of the records and public papers in it destroyed. The next year, however, the

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building was restored and again occupied by the town and Colony, and then by the town and the Commonwealth, until the new State House on Beacon Hill was built and opened for use in January, 1798. At that time the town meetings had come to be held in Faneuil Hall and the courts in the Court House on Court Street. The colony and court records and papers were after a time transferred to the new State House and became a part of the Massachusetts Archives, so called. The town records remained for a long time in the upper part of the old State House, and many of them were lost or taken away without right; but finally the remainder were removed to the City Hall erected on School Street in 1840, and furnish much of the valuable material which has been printed in the Boston Record Commissioners Reports.

Use of the Town House for a Public Library

BEFORE we enter upon the recital of the political and religious dissensions which were waged in the Town House, it is pleasant to turn to one use of it of a more peaceful nature.

In this day of free public library expansion, it is interesting to note that Captain Keayne's will in 1658 provided for the first free public library in America, to be kept in the Boston Town House. Indeed, the will shows that this library was one of the chief purposes which he desired to be accomplished by his bequest. He first mentions it in connection with the use of the building for the courts as "a convenient roome for a Library," then "as for a Library & for a Gallere or Long Roome for the Devines & Schollers to meete & conferr together," &c. Later on, after providing for partial payments of his legacy as the construction of the Town House progressed, he said:

Next, the Library & Gallere for Devines & Schollers to meete in being finished I give and bequeath to the beginning of that Library my 3 great writing bookes w^{ch} are intended as an Exposition or Interpretation of the whole Bible, as also a 4th great writing booke in which is an exposition on the Prophecy of Daniel of the Revelations & the Prophecy of Hosea not long since began, all which Bookes are written with my owne hand so farr as they be writt & could desier that some able scholler or two that is active and dilligent & addicted to reading and writing were ordered to carry on the same worke by degrees as they have leasure and opportunitie & in the same methode and way as I have begun (if a better be not advised to) at least if it shalbe

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esteemed for the profit of it to young students (though not so to more able and learned Devines in these knowing times) worth the labo^r as I have & doe finde it to my selfe worth all the paines & labour I have bestowed upon them, so that if I had 100^{lb} layd me downe for them, to deprive me of them, till my sight or life should be taken from me I should not part from them.

Then near the close of the will he said:

And concerning my bookes that I have given to begin the Library with all in Boston, my will is that my brother Willson & M^r Norton Eld^{rs} at Boston or the teaching Eld^{rs} that shall at the time of my death (after my wife and son Benjamine have made choyce of some bookes for their owne use as I have before expressed) may be requested to take paines to view over the rest of my bookes & such as they shall judge fitt for that use to take a pticul^r note or inventory of them & so to take them into their owne keeping or to leave them with my executo^r if they will, till the time mentioned in this will be accomplished, that if the towne of Boston should not within three yeares after my death build a handsome roome for a Library & anoth^r for the Eld^{rs} and Scholl^{rs} to walke & meete in, as before I have expressed, that then they may be delivered to the President or some of the Overseers of Herbert Collidge in Cambridge to be placed as my gift or addition to that Library that is already begun there.

But the “handsome roome for a Library” was provided in the Town House, and Captain Keayne’s books were doubtless placed in it as the nucleus of a public library. Additional books appear to have been given to the library from time to time by other persons.

In 1678 Rev. John Oxenbridge of Cambridge, by his last will, which is now in the possession of the Public Library of the City of Boston in the manuscripts of the collection of the Rev. John Prince, gave “to the publick Library in Boston or elsewhere as my Executrix and OverSeers shall judge best Augustins workes

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in 6 volum's, the Century's in 8 volum's,* the Catalogue of Oxford Library Trithemius catalogue of Ecclesiastick writers, also Pareus workes in 2 volumns, Peneda upon Job in 2 volumns, Euclids Geometry Willet on Leviticus, Davenant on the Colossians, Pemiles (?) workes,† Epit. of Centurian in 2 volum."

The colonists doubtless had books for public use to a limited extent, at least, before the Library in the Town House was established. It appears by the records of the Colony that on April 18, 1629, books were given to them. The record is as follows:

This day notice was given that Mr. Will^m Backhouse had freely bestowed upon this Company to send for New England these books following, for wch thankes was given by the Governor and those present to the said Mr. Backhouse in the Companies behalfe.

The English Bible *in folio of the last print*:

The Booke of Common Prayer:

Aynsworth's Works *in folio*:

Bishop Babingtons Works:

Calvins Institutions:

Fotherby against Atheists:

Malderott upon St. Johns Gospel:

A booke called The French Country Farme.

These books may have been a part of the collection subsequently placed in the Town House, though I think it improbable, as this collection was not gathered until nearly thirty years after they were given. It is to be noted that the Book of Common Prayer mentioned in this list was never used. Hutchinson says: "I find a Common Prayer Book among the list of books pre-

*The *Centuriae Magdeburgenses*.

† Possibly the *Workes of William Pemble*, 1639.

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sented by William Backhouse for the use of the ministers, but it was never made use of in any church.”

It appears upon the records of the town that money was expended upon the library. On August 2, 1688, it was voted by the selectmen as follows:

Given David Edwards an ord^r vnd^r y^e select mens hands to receave of Elder John Wiswall & Doct^r Elisha Cooke, 34^{ld}. 4^s. in mony for severall things he brought from England for y^e vse of the Library, by order of Cap^t Brattle & is in pte of a greate sume due from them, for Cap^t. Rob^t. Keynes legacie to y^e vse of s^d Library, as apeares fol. 47.

On March 11, 1695, it was voted by the town “that the bookes of the Register of Birthes and deathes in the Town of Boston shall be demanded by the Select men in whose hands soever they be and that all Bookes or Other things belonging to the Library and all the goods or Estate belonging to the Town be demanded and Taken care of by the Select men.”

The town records have few references to the books of the library, but that there came to be a considerable collection of them appears from an order of the selectmen on August 31, 1702, that “M^r. John Barnerd jun^r be desired to make a Cattalogue of all the bookes belonging to the Towns Libery and to Lodge the Same in y^e s^d. Libery;” and an order of the selectmen on February 28, 1704, that “M^r. John Barnerd, jun^r., haveing at the request of the Select men Set the Towns Libery in good order, he is allowed for S^d. Service two of those bookes of wh^{ch} there are in y^e S^d. Libery two of a Sort.” It is not likely that this was a circulating library. Its books were probably used as

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a rule in the Town House. After the fire by which the Town House was destroyed the following advertisement appeared, on June 8, 1718, in the "Boston News Letter:"

ADVERTISEMENTS.

All Persons that have in their keeping, or can give notice of any of the Town Library; or other things belonging to the Town House in Boston, before the late Fire: are desired to inform the Treasurer of the said Town thereof, in order to their being returned.

The first volumn of Pool's Annotations was carried away in the late Fire in Boston; any Person that has it, or any other Books, carry'd away at that time, or any other Goods, are desired to bring them to the Post Office, that the true Owners may have them again.

In a letter written some months after the burning of the Town House, Judge Sewall states that "in our Boston Library several valuable Books were lost, as the Polyglot Bible, the London Criticks, Thuanus's History, a Manuscript in two Folios left by Capt. Keyn the Founder; &c."

Doubtless all books in this first library, except such as may have been temporarily out for use, or have been secured at the time of the fire, were destroyed when the Town House was burned. One, however, probably still exists. A copy of Samuel Mather's "Testimony of the Scriptures Against Idolatry and Superstition" is in the possession of the Boston Athenæum. At the bottom of the title-page is written in a clear hand: "For the publice Library at Boston, 1674." It consists of two sermons. The full title of the first is:

A Testimony from the Scripture against Idolatry and Superstition in Two Sermons: Upon the Example of that Great Re-

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former Hezekiah. 2 Kings, 18, 4. The first witnessing in generall against all the Idols and Inventions of men in the Worship of God. The second, more particularly against the Ceremonies and some other Corruptions of the Church of England. Preached, the one September 27, the other Septemb. 30, 1660. By Mr. Samuel Mather, Teacher to a Church of Christ in Dublin in Ireland.

1 Sam. 5, 3, 4. "And when they of Ashdod arose early on the morrow, behold, Dagon was fallen upon his face to the earth before the Ark of the Lord: and they took Dagon and set him up in his place again.

"And when they rose early on the morrow morning, behold, Dagon was fallen upon his face to the ground before the Ark of the Lord, and the head of Dagon and both the palms of his hands were cut off upon the threshold, onely the stump of Dagon was left unto him."

The title-page of the second sermon is:

The Second Sermon Witnessing more particularly against the Ceremonies of the Church of England. The Text 2 Kings 18, 4,

"And he removed the High Places and broke the Images and cut down the Groves, and brake in pieces the brazen Serpent, that Moses had made, for unto these dayes the Children of Israel did burn Incense to it, and he called it Nehushtan."

The main points of the second sermon are as follows:

1. The Surplice;
2. The Sign of the Cross in Baptism;
3. Kneeling at the Lord's Supper;
4. Bowing to the Altar;
5. Bowing at the name of Jesus;
6. Popish holy dayes;
7. The Holiness of places;
8. The Organs, or Cathedral Musick;
9. The Booke of Common Prayer;
10. Prelacy, or Church Government by Bishops.

It is said that other books than this one are still in existence with the mark of the Boston Library before 1700 upon them, but I have not as yet found them, or discovered any accurate information as to them.

This collection of books in the Public Library of

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Boston in the Town House must not be confounded with the collection of books in the Library of Boston belonging to King's Chapel, and now in the custody of the Boston Athenæum. These books were given to King's Chapel by King William, in 1698, and consisted of ninety-two folios, eighteen quartos and ninety smaller books. It has been said that this was the only collection of books not of private ownership in New England at that time, except the library of Harvard College. But it is evident that there was at that time a considerable collection in the Public Library of Boston in the Town House.

A catalogue of the books in the King's Chapel library is printed in the Proceedings of the Massachusetts Historical Society, 1881. This collection was partly scattered and lost in the Revolution, and in 1824 the volumes remaining were deposited with the Boston Athenæum, where they now are. Of these, fifteen volumes, all theological, still exist there, and have stamped upon their covers in gilt letters:

BELONGING . TO . ^E Y . LIBRA- RY . OF . BOSTON . IN . NEW . ENGLAND.

It is quite certain, however, that these books never formed any part of the Public Library at Boston, which was kept in the Town House.

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The spacious second-floor room at the east end of the Town House, which Captain Keayne foresaw as "a Gallere for the Eld^r & Scholl^r to walke & meet in," was not destined to serve only as a peaceful retreat for the students and divines of the Colony. In it were waged two of the bitterest conflicts of the years which were preparing the way for the Revolution. It was in this room that "President" Dudley first instituted the worship of God as set forth by the Church of England in the Book of Common Prayer; and from the "presse" in this room was doubtless brought the precious Charter of the Colony when, in 1664, the General Court, fearing that it might fall into the hands of the commissioners, appointed four trustworthy persons "to keepe safe and secret the said patent" and "to dispose thereof as maybe most safe for the country." Of these two conflicts, of which the "scholars" library was the scene, a full account is given in the later consideration of the colonial history enacted in the Town House.

Use of the Town House as a Place of Worship

THE Town House was the place where worship was first had in Boston according to the rites and ceremonies of the Church of England. Its use for this purpose is an interesting event in the long controversy between the Puritan Congregationalists, who would tolerate no worship in the Colony, except after their own fashion and in their own meeting-houses, and the Episcopalians, who wished to worship according to the liturgy of the English Church. The intense objection of the Puritans to this form of worship does not appear to have existed when the Colony was planted.

When Winthrop and his friends left England they did not intend to give up their connection with the English Church. On the contrary, in April, 1630, they wrote to the Fathers and their brethren in the Church of England, saying: "We desire you would be pleased to take notice of the principals and body of our company as those who esteem it our honor to call the Church of England, from which we rise, our dear mother and we cannot part from our native country, where she specially resideth, without much sadness of heart, and tears in our eyes, ever acknowledging that such hope and part as we have obtained in the common salvation, we have received it in her bosom, and sucked it from her breasts." Winthrop himself owned a Book of Common Prayer and a Life of the Virgin Mary, both of which he gave with his books, forty in number, to Harvard College. But in less than ten years even Win-

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throp's grateful and tolerant spirit gave way to vigorous repression of any attempt to use the liturgy of the Prayer Book in the Colony.

The men who had come to the new continent in pursuit of religious liberty soon passed laws forbidding the erection of a house where God might be worshipped in any other way than that approved by them. The penalty for meeting more than three times for such worship was the forfeiture of the land and the house where such meeting was held. An Act of May, 1679, runs thus:

Forasmuch as it hath too often hapned, that, through differences arising in severall townes on other pretences, there hath been attempts by some persons to erect new meeting houses, although on pretence of the publick worship of God on the Lords dayes, yet thereby laying a foundation (if not for schisme and seduction to erro^r & haeresies) for perpetuating divissions & weakning such places where they dwell in the comfortable support of the ministry orderly settled amongst them, for prevention whereof for the future, it is ordered by this Court and the authority thereof, that no persons whatsoeuer, wthout the consent of the freemen of the toun where they liue first orderly had & obteyned at a publick meeting assembled for that end, and licence of the County Court, or, in defect of such consent & license, by the speciall order of the Gennerall Court, shall erect or make vse of any house as aboue sajd; and in case any person or persons shall be conuicted of transgressing this lawe, euery such house or houses wherein such persons shall so meet more than three times, with the land whereon such house or houses stand, and all private wayes leading thercto, shall be forfeited to the vse of the county, and disposed of by the county Tresurer by sale or demollishing, as the Court that gaue judgment in the case shall order.

One of the principal complaints against the Puritan government under the Charter was their religious in-

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tolerance, and especially their refusal to permit worship according to the forms and ritual of the Church of England. When pressed by the Crown to permit the use of the Book of Common Prayer, they declined to do so, saying:

Concerning the use of the Common Prayer Booke.

Our humble addresses to his maj^{ty} haue fully declared our majne ends in our being voluntary exiles from our deare native country, which wee had not chosen at so deare a rate, could wee haue seene the word of God, warranting us to performe our deuotions in that way, & to haue the same set vp here: wee conueice it is apparent that it will disturbe our peace in our present enjoyments.

Not only were persons forbidden to choose their own way of worship, but they were compelled to attend upon public worship as established by the government, each Lord's Day and on all Fast Days and Thanksgiving Days. In 1646 the following order was passed:

Wherever the Ministry of the Word is Established, according to the Order of the Gospel throughout this Jurisdiction; Every person shall duely resort and attend thereunto respectively on the Lords dayes, and upon such publick Fast dayes, and dayes of Thanksgiving, as are to be generally observed by appointment of Authority. And if any person within this Jurisdiction shall without just and necessary cause, withdraw himself from the publick Ministry of the Word, after due means of conviction used, he shall forfeit for his absence from every such publick meeting *five shillings*. And all such offences may be heard and determined from time to time, by any one or more Magistrates.

This was tyranny equalled only by the Act of the Cromwellian Parliament making it a crime to use the service of the Book of Common Prayer even in private deuotions, and caused constant disturbance in the Colony.

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Another of the persistent controversies in the Colony between Episcopalian and Puritan was over the question whether marriages might be solemnized by clergymen, and especially by clergymen of the Church of England. The Puritans regarded marriage as a civil contract with which the Church ought to have nothing to do, and enforced this view by law. The colony law of 1646 provided that "No person whatsoever in this jurisdiction shall joyne any persons together in Marriage, but the Magistrate or such other as the General Court or the Court of Assistants shall Authorize in such place where no Magistrate is near. Nor shall any joyne themselves in Marriage but before some Magistrate or person Authorized as aforesaid."*

But when the Charter was vacated and Dudley arrived from England in 1686, with the English clergyman Ratcliffe in his company, he lost no time in asserting the right of the Church to perform the marriage ceremony. Only three days after the first Prayer Book service was held, the first marriage by a duly accredited minister of the English Church was solemnized in Massachusetts, and service was held in the Town House. The sharp-eyed Puritan, Judge Sewall, says of this under date of May 18, 1686: "A great Wedding from Milton, and are married by Mr. Randolph's Chaplain, at Mr. Shrimpton's, according to the Service-Book, a little after noon, when Prayer was had at the Town-House."

* Colony Laws, 1672, Whitmore Ed., p. 109. Province Laws, 1692-3, Ch. 25; 1695-6, Ch. 2; 1716, Ch. 16; 1772-3, Ch. 230. Ch. 3, Laws 1786; Ch. 141, Laws 1818; Ch. 55, Laws 1820; Ch. 172, Laws 1834. In this last Act the words "who has been ordained according to the usage of his denomination" are first found.

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Eleven days later a proclamation was made, giving all ministers the right to solemnize marriage, and forbidding any other persons to do so without a licence from the president, as follows:

At a Councill held in Boston in New England on May the 29th. 1686.

Present.

The Hon^{ble} Joseph Dudley Esq^{re} President.

.
a Proclamation published, impow'ring the severall Ministers and Justices of the peace in his Maj^{ty's} territory to consumate marriage, and no other persons without Licence from the President or his Deputy, and entred with the Secretary before marriage.

This was the only order, vote, or proclamation regarding the solemnization of marriages found in the Archives from 1686 to 1689. It is noted by Hutchinson, and Foote, in his "Annals of King's Chapel," speaks of it, but dates it May 26 instead of May 29.

Under the Andros government, a curious custom obtained by which the prospective bridegroom or his friends were obliged to give bonds with sureties to the governor, "to be forfeited in case there should be any lawful impediment" and to secure him against "all trouble which may or shall any wayes arise" by reason of granting a licence to marry. The following are copies of some of these bonds now in the Massachusetts Archives:

KNOW ALL MEN by these p'sents That Wee George Henly, Tal- low Chandler, and John Higgs Clothworther both of Boston in His Ma^{ty's}. Territory and Dominion of New Engld are firmly bound unto Edward Randolph Esq^r Sec^{ry} of his Ma^{ty's} sd Territory

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and Dominion in the sūme of fifty pounds cūrrant mony of New England to w^{ch} payment well and truly to be made We bind our selves joyntly & severally, Our heires Executors Adm^{rs} & assignes firmly by these p^sents. Wittness our hands and Seals this 29th of Decemb^r 1686 in the Second year of his Ma^{ty}^s. Reigne. The Condiçon of the above Obligaçon is Such, That If the above-bound George Henly and John Higgs shall Sufficiently keep and Same harmless the aforesaid Edward Randolph Esq^r. from all troubls which may or shall any wayes arise by the Said Edward Randolphs Granting a License to James Berry and Elizabeth Carwithen (both of Boston aforesd to be joynd in matrimony, that then this obligaçon to be Void otherwise to remaine in full forc[e] and Virtue.

Signed, Sealed & deliverd }
in y^e p^sence of us }

GEORGE HENLY
JOHN HIGGS

JOSH. BRODBENT
JOHN CLARKE.

KNOW ALL MEN by these p^sents That wee John Jacob of Boston Merchant and Hudson Leverett of Boston Getleman — are holden & stand firmly bound vnto his Excellency S^r Edmund Andros Kn^t Cap^t G^rall and Governo^r in Cheife of his Mat^{ties} Territory & Dominion of New England &c In the penall sūme of Two Hundred pounds New England money to be paid to the said S^r Edmund Andros Or his Certeyne Attourney Exe^s or admin^s For the w^{ch} payment well & truly to be made wee bind Our selves & each of vs Our heires Exe^s and admin^s Joyntly & seūally for & in the whole firmly by these p^sents Dated the sixth day of October Annoq Dni 1687 Anno R Rs Jacobi Secdi nunc Angl^o &c^a.

The Condiçon of this Obligaçon is such That if hereafter there shall not appeare any Lawfull Lett or Impediment by reason of any p^r contract Consanguinity Affinity or any other Lawfull meanes whatsoeū but that the abovesaid John Jacob and Susannah Lendall of Boston Widdow may Lawfully Solemnize Marriage Together and in the same afterwards Lawfully remaine & Continue like man and wife According to the Lawes in that be-

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halfe provided That then the above written Obligacon to be void
& of none Effect or else to Stand & remaine in full force & vertue./

Signed sealed and Deliued
in the p^rsence of./

JOHN JACOB
HUDSON LEVERETT

J^r BONAMY
P HEYMAN

KNOW ALL MEN by these p^rsents That Wee John Price of Water-
town and Mary Price of the Same Towne in his Ma^{ty}. Dom: of
New Engl^d are firmly bound in the Sume of fifty Pound mony
of New England to his Ex^{ce}. S^r. Edmond Andros Kn^t. Gov^r. of
his Ma^{ty} Dom. afores^d. to which paym^t. Well and truly to be
made We bind Our selves joyntly and Severally Our heirs Exe-
cuto^{rs} Adm^{rs}. and Assigns firmly by these p^rsents. Witness our
hands and Seals this twenty Ninth of March 1686

The Condicon of this Obligacon is Such y^t if the above bound
John Price and Mary Price shall sufficiently Save and keep harm-
less the afores^d. S^r Edm^d. Andros from all manner of trouble or
mollestacon w^{ch} may or shall hereafter happen by the sd S^r. Ed-
mond Andros's granting a License for marriage to James Knap
and Mary Clayt^r. of Watertown afores^d. then this Obligacon to
be void otherwise to Remaine in force and Virtue./

signed sealed & deliv^d.
in the p^rsence of us.

his
JOHN X PRICE
Marke

her
MARY X PRICE
marke

KNOW ALL MEN by these p^rsents That wee Thomas Whiteing of
the Island of Jamaice Marriner and Marke Sandford of Boston
Marriner are holden and stand firmly bound vnto his Excel-
lency S^r Edm^d Andros Kn^t Cap^t G^rall & Governour in Cheife
vnd^r his most sacred Majestie James the second King of Eng-
land & c^a In & over the Territory & Dominion of New England
in 200^{lb} Currant money of New England afores^d to be paid to his
s^d Excellency S^r Edmund Andros his Exec^{rs} Admin^{rs} or assignes

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To w^{ch} paym^t well truly to be made Wee bind our selves & each of us Our & each of our heires Exec^s Administrato^rs & assignes Joyntly & seūally for & in the whole firmly by these p^rsents Sealed with our seales Dated the Seaven & Twentieth day of December Anno Dñi 1678 Annoq R Rs Jac^o Seēdi nunc Anglia &c^a tertio./

The Condiçon of this Obligation is Such That if hercafter there shall not appeare any Lawfull Lett or Impediment by reason of any p^r contract Consanguinity Affinity or any other Lawfull meanes whatsoever but that the above said Thomas Whiteing and Mary Honywell of Boston Spinster may Lawfully Solemnize Marriage together and in the Same afterwards Lawfully remaine and Continue Like man and wife According to the Lawes in that behalfe Provided That then the above written Obligation to be void and of none Effect or else to stand and remaine in full force & vertue./

Signed Sealed and Deliūed in
the p^rsence of vs./

ABB SMITH

PETER HEYMAN

THOS: WHYTEING

MARK SANDFORD

The only Episcopal minister in the Colony was Ratcliffe. It may be surmised that the Puritans had no mind to pay money to one whose services were so hateful to them. Randolph wrote to the Bishop of London suggesting that the maintenance of the ministers—meaning of course the ministers of the Church of England—would be helped by a provision that “no marriages shall hereafter be allowed lawful but such as are made by the ministers of the Church of England.” That ingenious device, however, came to naught.

In 1692 the General Court acted upon the matter of solemnizing marriages by providing that every justice of the peace within the county where he resided, and every settled minister within the town where he

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was settled, might solemnize marriages, and should keep a register thereof. The strict Puritans objected to this, believing that ministers should have nothing to do with the matter. Sewall makes the following quaint and sour entry with regard to the passage of this Act, on November 4, 1692:

Law passes for Justices and Ministers Marrying persons. By order of the Committee, I had drawn up a Bill for Justices and such others as the Assembly should appoint to marry: but (it) came new-drawn and thus alter'd from the Deputies. It seems they count the respect of it too much to be left any longer with the Magistrate. And Salaries are not spoken of; as if one sort of Men might live on the Aer. They are treated like a kind of useless, worthless folk.

It may be noted here again that the question of the legality of marriage to a deceased wife's sister arose in the Colony, and Sewall's "Diary" gives an account of the summary settlement of it as follows:

Friday, June 14, (1695) The Bill against Incest was passed with the Deputies, four and twenty Nos, and seven and twenty Ycas. The Ministers gave in their Arguments yesterday in Writing; else it had hardly gon, because several have married their wives sisters, and the Deputies thought it hard to part them. 'Twas concluded on the other hand, that not to part them, were to make the Law abortive, by begetting in people a conceit that such Marriages were not against the Law of God.

To return to the consideration of the process by which the Crown, after the revocation of the Charter, set up the worship of God according to the Prayer Book, we may note that the Colony of Massachusetts was claimed by the Bishop of London as a part of his diocese. Accordingly, he selected the Rev. Robert Ratcliffe to go to Boston, and there establish the service

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which had been so vigorously opposed by the colonists, and the Privy Council recommended him to the people of the Colony for "a kinde entertainment and suitable maintenance."

Ratcliffe came to Boston in the frigate *Rose* with Dudley and Randolph, the arch-promoter of the destruction of the Colony Charter. At this time Hutchinson says: "There had been very few instances of even occasional assemblies for religious worship according to the rites and ceremonies of the Church of England for more than fifty years." The commissioners of 1665 had, indeed, had a chaplain; but it does not appear that he ever officiated in the Colony, and his instructions from England were, if he should do so, not to wear his surplice. But the new president, Joseph Dudley, although he had been a Congregational minister in early life, had become a member of the Church of England and was afterwards an active vestryman of King's Chapel. On May 15, 1686, the next Sunday after the landing of the *Rose*, Ratcliffe preached in the Town House, or, as it had then become, the Council House, and "read Common-Prayer in his Surplice, which was so great a Novelty to the Bostonians that he had a very large Audience."

Mr. Ratcliffe at once took steps to procure a place where he might hold Episcopal services. His first plan seems to have been to obtain permission to hold services in one of the Congregational meeting-houses at hours when they were not in use for the services of their own congregations. There were then three meeting-houses,—the First Church, on the Corn-Hill, near

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the Town House where the present Rogers Building now stands; the Second Church, opened in 1650, which stood at the head of North Square; and the South Church, opened in 1670, which stood where the present Old South Meeting-House now stands, at the corner of Washington and Milk streets. But the ministers and parishioners worshipping in these churches regarded service according to the forms of the Episcopal Church as profane, and stoutly refused to allow it in their meeting-houses upon any terms, and it was finally arranged that Mr. Ratcliffe might hold services in the Town House. Sewall notes in his diary:

Wednesday, May 26. Mr. Ratcliffe, y^e Minister, waits on y^e Council; Mr. Mason and Randolph propose y^t he may have one of y^e 3 Houses to preach in. That is deny'd, and he is granted y^e East end of y^e Town House, where y^e Deputies used to meet; until those who desire his Ministry shall provide a fitter place.

On May 30 Sewall again notes:

My son reads to me in course y^e 26th of Isaiah,—In that day shall y^e Song, etc. And we sing y^e 141 Psalm both exceedingly suited to y^e day. Wherein thereis to be Worship according to y^e Chh of Engl^d as 'tis call'd, in y^e Town House by Countenance of Authority. Tis defer'd till y^e 6th of June at what time y^e Pulpit is provided; it seems many crowded thether, and y^e Ministers preached forenoon and Afternoon. Charles Lidget there. The pulpit is movable, carried up and down stairs, as occasion serves.

It was in the east end of the Town House, in the Library Chamber, that the liturgy of the Church of England was for the first time publicly read in Boston; and June 15, 1686, "the Church of England as by law established" was organized in Boston. This appears from the first record of that organization, which now con-

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minutes the Church of King's Chapel. These records show that at the first meeting it was "Agreed that Mr. Smith the Owner to make 20 benches for the service of the Church." July 4, 1688. It was agreed that "Mr. Smith the Owner to make a reading table and Desk." "that a Custodian be bought for y^e Pulpit." and that "there be a Sacrament the 3^d Sabbath in August next." also, "That the prayers of y^e Church be said every Wednesday and Friday in the year, in the present, in the Library chamber in y^e Town House in Boston, and in the Summer Season to beginne at 7 of the Clock in the morning, and in the Winter Season at 2 of the Clock in the Forenoon."

On August 8 the Sacrament of the Lord's Supper was celebrated in the Town House, and the records show that a collection was taken up amounting to £1 3s., which is noted as "Cash rec'd at y^e Sacrament." Sewall, observant of everything that took place, notes in his diary: "Sabbath-day, Aug^r 8. Tis 3^d y^e Sacrament of y^e Lord's Supper is administered at y^e Town H."

The Town House and the Library Chamber therein were then put to a use which the pious Captain Keyne, who in his last will, by which he provided for its construction, "renowneeth all Popish & Prelaticall superstitions," and the others by whose bounty it was provided, certainly never contemplated and would undoubtedly have absolutely condemned. The following notes by Sewall show what then took place:

August 5, 1686, Wm Harrison, the Bodies-maker, is buried, which is the first that I know of buried with the Common-Prayer Book in Boston. He was formerly Mr. Randolph's landlord.

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Friday, Aug^t 20, I was and am in great exercise about y^e Cross to be put into y^e Colours, and afraid if I should have a hand in't whether it may not hinder my Entrance into y^e Holy Land.

Sept^r 15. Mr. David Geffries marries Mrs. Betty Usher before Mr. Ratcliffe.

Friday, Nov^r. 5, One Mr. Clark preaches at the Town-House. Speaks much against the Presbyterians in England and here.

Satterday, Nov^r. 6. One Robinson Esq^r., that came from Antego, is buried; first was had to the Town-House and set before the Pulpit, where Mr. Buckley preaches. The President and many others there. Common-Prayer used.

Friday, Nov^r. 12. Jn^o Griffin is this week buried with the Co^mon-Prayer: Which is the third funeral of this sort, as far as I can learn.

It is said that at this time there were several hundred persons in Boston who desired to worship according to the liturgy of the Church of England; but however this may be, the Library Room doubtless afforded limited accommodation for such as desired to worship in that manner. Randolph, in a letter to the Archbishop of Canterbury in October, 1686, complains that the members of the Church of England were compelled to worship in "a little room in their towne house but found it so strait" that they were forced to worship in the Exchange, where, he says, "our minister preaches twice a day and baptises all that come to him, some infants, some adult persons;" and adds, "We are now going to have praiers every Wednesday and Friday morning on their Exchange."

Doubtless there was continual complaint that the Episcopalians were not permitted to hold services in either of the meeting-houses. Dudley, however, was a

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prudent, cautious man, and though himself then of the Church of England, did not deem it wise to force the people in such a matter. But being a royal governor Dudley did not suit the colonists, and being a prudent governor he did not suit the Crown. Accordingly, he was soon superseded by Sir Edmund Andros, who arrived in Boston on December 20, 1686, with a commission which authorized him to suppress all independence of the people. This he at once attempted to do.

One of his first acts was to attempt to force the worship of the Church of England into the meeting-houses of the Boston Puritans. On the day of his landing he spoke to the ministers of the churches in the Library Room of the Town House, to see if they would not permit the Church of England services to be conducted in one of the meeting-houses.

Sewall notes:

Monday, Dec^r. 20. 1686. Governour Andros comes up in the Pinace, touches at the Castle, Lands at Gov^r. Leveret's wharf about 2 P. M. where the President, &c. meet him and so march up through the Guards of the 8 Companyes to the Town House, where part of the Comission read: He hath power to suspend Councillors and to appoint others if the number be reduced to less than Seven. He and Council to make Laws. Then took the Oath of Allegiance as Governour, then about eight of the Council sworn. Court clear'd. Governour stood with his Hat on when Oaths given to Councillours. It seems speaks to the Ministers in the Library about accommodation as to a Meeting-house (for church services), that might so contrive the time as one House might serve two Assemblies.

It was then and there in the Library Chamber of the Boston Town House that the Cavalier and the Puritan again looked each other in the face with determined

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and unrelenting enmity. Andros fitly represented the corrupt Stuart dynasty, and Mather and Willard and Mayhew and Allen, ministers of Boston, the bigoted Puritanism of the plain people of New England. The ministers, however, asked time to consider the matter, and the course of events is shown by the following extracts from Sewall's "Diary:"

Tuesday, December 21, There is a Meeting at Mr. Allen's, of the Ministers and four of each Congregation, to consider what answer to give the Governour; and 'twas agreed that could not with a good conscience consent that our Meeting-Houses should be made use of for the Common-Prayer Worship.

Decr. 22. In the evening Mr. Mather and Willard thorowly discoursed his Excellency about the Meeting-Houses in great plainness, showing they could not consent. This was at his Lodging at Madam Taylor's. He seems to say will not impose.

Satterday, Decr. 25. Governour goes to the Town-House to Service Forenoon and Afternoon, a Red-Coat going on his right hand and Capt. George on the left. Was not at Lecture on Thursday. Shops open today generally and persons about their occasions. Some, but few, Carts at Town with wood, though the day exceeding fair and pleasant. Read in the morn the 46. and 47. of Isa., and at night Mr. Norton from Jn^o 9. 8. Neither this Man nor his Parents.

Services continued to be held in the Town House until the spring of 1687. Sewall notes on January 31, 1687, there was service in the Town House, "respecting y^e beheading Charles y^e First," and the governor was there. Andros, however, was insistent that one of the meeting-houses should be used for the Episcopalian service, and finally sent for the keys of the South Meeting-house, where Judge Sewall worshipped. He records as follows:

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Wednesday, March 23, The Governour sends Mr. Randolph for the Keys of our Meetinghouse, that may say Prayers there. Mr. Eliot, Frary, Oliver, Savage, Davis and my Self wait on his Excellency, shew that the Land and House is ours, and that we can't consent to part with it to such use; exhibit an Extract of Mrs. Norton's Deed, and how 'twas built by particular persons, as Hull, Oliver, 100.£ apiece, &c.

Also that on

Friday, March 25, 1687, The Governour has service in the South Meetinghouse. Goodm. Needham (the Sexton), though had resolved to the contrary, was prevailed upon to Ring the Bell and open the door at the Governour's Comand, one Smith and Hill, Joiner and Shoemaker, being very busy about it.

Governor Andros's account of this matter was that he "borrowed" the meeting-house. He said:

The Church of England being unprovided of a place for theyr publique worship, he did, by advice of the Councill, borrow the new meeting house in Boston, at such times as the same was unused, until they could provide otherwise; & accordingly on Sundays went in between eleven and twelve in the morning, and in the afternoone about fower; but understanding it gave offence, hastned the building of a Church, w^{ch} was effected at the charge of those of the Church of England, where the Chaplaine of the Souldiers p^rformed divine service & preaching.

Andros, having thus taken forcible possession of the South Meeting-house for the service of the Church of England, the Episcopalians ceased to use the Library Room in the Town House and worshipped in the South Meeting-house, against the objection of the owners of the building, during the remaining two years of Andros's administration. This produced perpetual friction between the owners of the meeting-house and the governor and others who used it for Episcopalian services. The ministers and owners would not even allow the

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bell to be tolled on Wednesdays or Fridays for the Church of England people to go to prayer, saying that it "entrenched" on their liberty of conscience so to do.

The governor desired the town to aid in building a church for the Episcopalians, but it would not; and Sewall records an exciting interview with the governor on June 23, 1688, as to this refusal, and as to the difficulties which arose by the Episcopalians having their service in the South Meeting-house. Further information as to this controversy will be found in Sewall's "Diary" (vol. i. p. 217) and Foote's "Annals of King's Chapel" (vol. i. p. 43 *et seq.*).

**The Use of the Town House
by the Colony Government under the
Original Charter: 1659-1686**

WHEN the General Court began to use the Boston Town House in 1659, the colonists were living in peace under their Charter, granted by Charles the First, on the fourth day of March, 1629, to "the Governor and Companie of Massachusetts Bay in New England." This Charter provided for a government by a governor, a deputy governor, and eighteen assistants, to be "from time to time constituted and chosen out of the freemen of the said companie," &c. By the law of the Colony, no man had any share in the government, or any vote, unless he was a member of one of the churches. No church society could be gathered without the allowance of the magistrates consisting of and elected by members of the churches, and it was a crime to preach to a society not thus allowed.

The Charter gave the government authority to hold each year "four general assemblies styled and called the foure great and general courts of the said Company." It gave these courts authority "from tyme to tyme to make, ordain and establish all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions not contrary to the laws of this our realm of England." Under this Charter the governor, deputy governor, and assistants, with two persons deputed by the freemen of each town to represent them in the General Court* and called "deputies,"

*This basis of representation was fixed in May, 1639, and continued until

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constituted the colony government when the Town House was completed in 1659. At that time there were but fourteen assistants, while the Charter required eighteen.

Up to this time the English government had paid but little attention to the puny Puritan colony on the sterile Massachusetts coast. Charles I had been executed, and Oliver Cromwell had succeeded him in rule as Lord Protector; but though there had been occasional claims that the colonists had assumed powers not given by the Charter, and that therefore it was liable to be revoked and forfeited, and although they had been at times requested to send the Charter to England for surrender, no effective action had been taken to deprive them of their privileges and powers under it.*

The people of Boston were so active in defence of the Charter and their rights under it that the entire Colony was frequently called by the Royalists "The Corporation of Boston."† The colonists had construed the Charter most broadly, and had made laws without

1680 (Winthrop, i. 300, and note). Under the original Charter no town could have more than two deputies, and if the town had less than twenty freemen it had only one deputy; if it had less than ten it had no deputy, and no attorney-at-law could be a deputy (Hutchinson's Collection, p. 428).

* In Hutchinson's Collection (pp. 101-106) will be found a copy of a Quo Warranto against the Company of Massachusetts Bay by the Attorney-General of England, and a judgment of forfeiture therein entered January, 1638. Also a letter from the Lords Commissioners for Foreign Plantations, reciting the Quo Warranto and judgment, and ordering a letter to be sent Governor Winthrop, commanding him, or any other in whose power and custody the letters patent of the Colony were, to transmit the said patent by the return of the ship in which the order was conveyed to them. (See, also, Winthrop, i. 269.)

† See Randolph's Report, October 12, 1666, and Hutchinson's Collection, Prince Society Edition, ii. 210.

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regard to the laws of England, and even in contravention of such laws. They had coined money in their own name; had issued legal processes in the name of the Colony without reference to the King; had even cut the cross from the English flag, and had practically assumed to act as an almost independent state, with representative government. The situation was such that an irrepressible conflict arose between the colonists under their representative government and the Stuart dynasty, under its claim of arbitrary power over the Colony. This conflict was waged in and about the Boston Town House. A review of some of the acts of the General Courts there assembled will show the reader many of the characteristics of the people in the early time. Their vigour in dealing with all matters of business, their simplicity in passing directly from the most trivial to the most serious acts, the sternness and severity of the punishments they decreed, and their devotion to the Charter which, as they believed, secured them their liberties,—all appear in the records of their doings in the old Boston Town House.

The first meeting of the General Court held in the Town House was on May 11, 1659, when John Endicott was chosen governor and Richard Bellingham deputy governor. Nine assistants were chosen, and Edward Rawson was chosen secretary. Thirty-three deputies were returned from the several towns, and Captain Thomas Savage was chosen speaker.

The first Act passed was an order for “settling the poore” so that they might be relieved by the town found properly chargeable for their support. An Act

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was then passed making it a crime to observe Christmas, as follows:

For preventing disorders arising in severall places wthin this jurisdiction, by reason of some still observing such ffestiualls as were superstitiously kept in other countrys, to the great dishonor of God & offence of others, it is therefore ordered by this Court and the authority thereof, that whosoever shall be found observing any such day as Christmas or the like, either by forbearing of labour, feasting, or any other way, vpon any such accounts as aforesajd, euery such person so offending shall pay for euery such offence fve shillings, as a fine to the county.

At this time England was in the confusion that followed the death of Oliver Cromwell on September 3, 1658. The General Court therefore, at this meeting, passed the following:

This Court, taking into their serjous consideration the present unsettled estate & condicon of our brethren in our native countrje by comotions & great thoughts of heart, both in countrje & Parljamnt, now assembled, a good issue whereof doth wholly depend vpon the Lords favor & goodnes towards them, as also the Lords frownes vpon ourselves by the irreparable rents & diuissions in sundry churches, the great security & sensuality vnder our present enjoyments, the sad face on the rising generation, together wth threats of future evils in this present spring season, all w^{ch} are signes of the Lords displeasure for our wthdrawing from him, appoint June 15th as a solemne day of humiliation for the imploring of Gods favorable presence yett to abide wth our deare natiue country, & wth vs his poore people & churches in the ends of the earth, & wth our seede after vs.

On October 18, 1659, a second session of the General Court was held in the Town House. December 8 was appointed as a day of thanksgiving, and the following order as to the solemnization of marriages was passed:

There being severall tounes wthin this jurisdiction who are

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not only remote from any magistrate, but also destitute of any person impowred to solemnize marriage, the want whereof is an occasion of much trouble & sometjmes disapointment, which to prevent, it is ordered, that Capt Johnson for Wooborne, Left French for Billirrikey & Chelmsford, W^m Coudrey for Redding, Capt Marshall for Lynn, M^r Thomas Nojce for Sudbury, M^r Edw Woodman for Newbury, Left Robert Pike for Salisbury, Left Christopher Hussie for Hampton, Capt Eliazer Lusher for Dedham, M^r Wheelocke for Meadfeild, Capt Joshua Hubbard for Hingham, Capt W^m Torrey for Weimouth, M^r Peter Brackett for Braintrje, shall & hereby are appointed & empowred to joyne in marriage such persons wthin their respective tounes or ljmitts as shall desire the same, being published according to lawe.

They then passed sentence of death upon W^m Robinson, Marmaduke Stephenson, & Mary Dyer, as banished Quakers who had returned, and issued warrants for their execution by hanging. Robinson and Stephenson were hanged on Boston Common, October 27, 1659, pursuant to the warrant of the General Court; but in the case of Mary Dyer, they gave her liberty to depart out of the Colony within forty-eight hours, and to be "kept close prisoner till hir sonne or some other be ready to carry hir away wthin the aforesajd tjme." And it was then ordered that she "be carrjed to the place of execution, & there to stand vpon the gallowes, with a rope about her necke, till the rest be executed, & then to retourne to the prison remajne as aforesajd." Mary Dyer was taken away at that time, but returned, and was hanged on the Common, June 1, 1660.

They then issued a long declaration bristling with Scriptural quotations, defending their treatment of Quakers; ordered a fence to be erected about the prison and house of correction in Boston to prevent persons

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from conversing with the prisoners; sentenced a Quaker to banishment; decided disputes arising under the will of Captain Keayne; returned thanks to the Rev. Mr. John Norton for his services in drawing up the declaration as to Quakers, and also granted him five hundred acres of land "as a small recompence for his pagnes therein."

After this they authorized Henry Chickering to solemnize marriage between two couples recently published at Dedham, Captain Lusher, the assistant at Dedham, being in attendance upon the Court, and entered judgment for a plaintiff for "ten bushels of wheat and costs of Court, making £18. 4s. 7p." They also passed the following order with regard to Captain Keayne's family:

In consideration of the late Capt Robert Keaynes libberall gifts to the country in his will, the whole Court mett together voted, that M^{rs} Anna Cole, the late relict of the said Capt Robert Keayne, and Anna Keayne, the grand child shall have five hundred acres of land a peece laid out to them & their heires where it is to be found.

They transacted much other business and "dissolved" on the twelfth day of November.

The proceedings of the General Court at these two sessions of the first year in which it occupied the Town House fairly indicate the conduct of business by it at that time. The next General Court convened May 30, 1660, with eight assistants and thirty-five deputies. At this session "the whole Court mett together" and voted that Mary Dyer for rebelliously returning into the Colony should be hanged on the first day of June,

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“about nine of the clock in the morning,” and issued a warrant therefor.

At the second session of the General Court, held on October 16, 1660, in the Town House, a law punishing suicide was passed as follows:

This Court, considering how farre Sathan doth prevajle vpon seuerall persons w^{thin} this jurisdiction to make away themselves, judgeth that God calls them to beare testimony against such wicked and vnnaturall practises, that others may be deterred therefrom, doe therefore order, that from henceforth if any person, inhabitant or strainger, shall at any time be found by any jury to lay violent hands on themselves, or be wilfully guilty of their oune deaths, euery such person shall be denjed the privilege of being burjed in the coñon burying place of Christians, but shall be buried in some coñon highway where the selectmen of the toune where such person did inhabit shall appoint, & a cart loade of stones layd vpon the graue, as a brand of infamy, and as a warning to others to be ware of the like damnable practises.

They then passed additional laws for the trial, conviction, and punishment by death of banished Quakers; granted Roxbury five hundred acres toward the maintenance of a free school; reprovved a clergyman for having baptized three children “after the exercise was ended upon the Lord’s Day,” in a house in Falmouth, “to the offence of the Government of this Commonwealth;” and transacted much other business.

On December 19, 1660, a session of the General Court was called by the governor, and a long address was voted to be made to King Charles II and another to Parliament, praying that the grant of their Charter might be confirmed, and commissioners were appointed and instructed to deliver the petitions to the King and to the “High Court of Parliament.”

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The General Court again met in the Town House on May 22, 1661. They first voted a bounty on wolves, and then passed an order providing as follows:

This Court, being desirous to try all meanes, wth as much lenity as may consist wth our safety, to prevent the intrusions of the Quakers, who besides their absurd & blasphemous doctrine, doe, like rouges & vagabonds, come in vpon vs, & haue not bin restrained by the lawes already provided, haue ordered, that euery such vagabond Quaker found wthin any part of this jurisdiction shall be apprehended by any person or persons, or by the connstable of the toune wherein he or she is taken, & by the connstable, or, in his absence, by any other person or persons, conveyed before the next magistrate of that sheire wherein they are taken, or co^mmissioner invested wth magistratticall power, &, being by the sajd magistrate or magistrates, co^mmissioner or co^mmissioners, adjudged to be a wandering Quaker, viz^t, one that hath not any dwelling or orderly allowance as an inhabitant of this jurisdiction, & not giving ciuil respect by the vsuall gestures thereof, or by any other way or meanes manifesting himself to be a Quaker, shall, by warrant vnder the hand of the sajd magistrate or magistrates, co^mmissioner or co^mmissioners, directed to the connstable of the toune wherein he or she is taken, or in absence of the connstable or any other meete person, be stripped naked from the midle vpwards, & tjed to a carts tayle, & whipped thro^h the toune, & from thence imediately conveyed to the connstable of the next toune towards the borders of our jurisdiction, as their warrant shall direct, & so from connstable to connstable till they be conveyed thro any the outward most townes of our jurisdiction.

The order then provided that if a Quaker should return and be thrice convicted, he should be branded with the letter R on his left shoulder, be severely whipped and be sent away in manner as before, and if he again returned be punished with death. The order also provided for the payment of expenses that might

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arise from apprehending, whipping, and conveying Quakers out of the Colony, and authorized the constable "to impresse cart, oxen & other asistance for the execution of this order."

The Court then censured a book called the "Christian Commonwealth," by John Eliot of Roxbury, ordered it to be "totally suppressed," and required all persons having the book to "either cancel & deface the same, or deliuer them vnto the next magistrate or to the secretary." He was the "Apostle Eliot," who translated the Bible into the Indian language, a most eminent and pious man. A special Court was held August 7, 1661, with only eight assistants and sixteen deputies present, at which it was ordered that "the kings mag^{ty} that now is shall be proclaymed here in the forme hereafter expressed, in Boston, on the eighth day of this instant August, presently after the lecture." This king was Charles II. An order was then passed declaring that no person should "psume to drinke his maj^{ty} health, w^{ch} he hath in speciall forbid, and that this order shall be posted vp in Boston this present day, that all persons may take notice thereof;" and the order was posted accordingly in the Town House. They then ordered that the "lawe lymitting the nomination of but fowerteen Asistants be henceforth repealed, and that the freemen be at liberty to choose eighteene Asistants, as the pattents hath ordeyned;" and then voted another address to the King, in which they prayed God to "preserve him from all emissaries agitated by an infernall spirit, vnder what appellations soeuer disguised."

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November 27, 1661, a special session of the General Court called by the governor was held, a letter from the King was read, and in compliance therewith the Court declared that the execution of the laws in force against Quakers "so farr as they respect corporall punishment or death, be suspended vntill this Court take further order." They then appointed the second day of January following to be "a day of solemne humilliation and supplication to the Lord."

At a General Court on May 7, 1662, Endicott was again chosen governor, and there were present ten assistants and twenty-eight deputies. The first act at that session was to pass the following order:

As an adition to the lawe about apparrell. Whereas **excesse** in apparrell amongst vs, vnbecoming a wildernes condition, & the profession of the gopell, whereby the rising generation are in dainger to be corrupted & effeminated, w^{ch} practises are wittennessed against by the lawes of God & sundry civil & Xtian nations, it is therefore ordered & enacted by this Court & the authority thereof, that all persons wthin this jurisdiction, wther the children or servants that are vnder goūment in familys, that shall weare any apparrell exceeding the quality & condition of their persons or estate, or that is apparently contrary to the ends of apparrell, & either of these to be so judged by the grand jury & County Court of that sheire where such complaint or p̄sentment is made, —all such persons, being convicted, shall for the first offence be admonished, for the second offence pay a fine of twenty shillings, for the third offence forty shillings, & so following, as the offences are multiplied, to pay forty shillings a tyme to the treasury of that county. Also, if any taylor shall make or fashion any garment for such children or servants vnder gownment, as aforesajd, contrary to the minde & order of their parents or gouno^rs, euery such taylor shall for the first offence be admonished, & for the second offence to forfeite double the value of such apparrell or



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garment as he shall fashion or make contrary to the minde & order of parents or gouno's; halfe to the owner & halfe to the country. And all grand jurymen are hereby enjoyned to present all those whom they doe judge breakers of this order.

They then forbade the exportation of wheat or flour, and appointed the fifth day of the next month as a day of "fasting & prajer."

October 8, 1662, the commissioners, Simon Bradstreet, Esq., and the Rev. Mr. John Norton, who had in 1661 been sent to England, to present an address to the King and to seek to preserve the Colony Charter, presented a letter from the King, which was read by the governor to the whole Court of the Assistants and the Deputies sitting together in the Town House, and the Court ordered the same published, and ordered that all future legal proceedings should be in the name of His Majesty. Notwithstanding this, however, some constables and town officers refused to publish the King's letter or to serve attachments in his name, and said of the letter that it was "popery."

Then, referring to their previous order suspending the execution of Quakers, they provided that the law of May, 1661, against vagabond Quakers, should be in force thereafter in all respects, but that the whipping be only through three towns, and that the magistrate or commissioners signing the warrant should appoint the towns and the number of stripes to be given in each town. At this session an order was passed fixing the price of corn and other commodities to be paid as taxes, as follows:

Wheat, barley, & barley mault at five shillings sixpence p

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bushell, pease and rye at fower shillings sixepenc, & Indian at three shillings, all good & merchantable corne; & whateuer else shall be payd in the country rate to be according to money price, provided that no toune or person shall pay leane catle in the country rate, & that there be one rate & a quarter for this present yeare.

At the same session they passed this order for censorship of the press:

For presentation of irregularitjes & abuse to the authority of this country by the printing presse, it is ordered, that henceforth no copie shall be printed but by the allowance first had & obtained vnder the hands of Capt Daniel Gookin & M^r Jonathan Mitchel, vntil this Court shall take further order therein, but May 27, 1663, they ordered that the printing presse be at liberty as formerly, till this Court shall take further order, & the late order is heereby repealed.

At a General Court held October 20, 1663, it was enacted—

That no masters of shippes or seamen, having their vessels riding wthin any of our harbo's in this jurisdiction, shall presume to drinke healths, or suffer any healths to be druncke wthin their vessels by day or night, or to shoote of any gunne after the daylight is past, or on the Saboath day, on poenalty for euery health twenty shillings, & for euery gunn so shott twenty shillings; & the capt of the Castle is hereby enjoyned to giue notice of this order to all shippes that passe by the Castel.

At the General Court held in the Town House on the 18th of May, 1664, Endicott was again chosen governor, and Bellingham deputy governor. The first business transacted was to pass an order against singing and making a noise in any place of public entertainment. Then, apparently being of the opinion that the physical possession of the patent was of great importance, and fearing that it might be taken away from them, they passed this order:

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Forasmuch as it is of great concernment to this comonwealt to keepe safe & secret our pattent, it is ordered, the patent, & duplicate belonging to the country, be forthwth brought into the Court, & that there be two or 3 persons appointed by each house to keepe safe & secret the sajd patent & duplicate, in two distinct places, as to the sajd comittees shall seeme most expedient. It is ordered, that the Dept. Gouno^r, Majo^r Genll Leueret, Capt Clarke, & Capt Johnson are appointed to receive the grand patent from the secretary, & to dispose thereof as maybe most safe for the country.

The patent was then brought in and “delivered to the Dep^t Gouno^r, Rich Bellingham, Esq. & the rest of the comittee, in presenc of the whole Court.”

In this connection it is interesting to note the curious legal proceedings in England to deprive the colonists of the Charter. The original proceedings for the forfeiture of the Charter in the reign of Charles II were by a writ of *quo warranto* in the Court of King's Bench. It was this proceeding with which the King threatened the Colony in his letter sent by Randolph in December, 1680, and in the Royal Declaration sent to the Colony by Randolph in July, 1688, wherein he requested the colonists to surrender their Charter, and declared that any person who defended the *quo warranto* proceedings must do so at his private expense and not at any public expense of the Colony. The prosecution of this common law proceeding appears to have been abandoned, and a new suit begun by a writ of *scire facias* in the Court of Chancery April 16, 1684; and it was upon this proceeding before the chancellor that a decree was made June 21, 1684, and confirmed October 23, 1684, vacating the Charter, upon default and before the col-

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onists had any legal notice and opportunity to defend the new suit. One of the reasons for this change of procedure may have been that in the common law proceeding originally commenced, the only judgment would be one forfeiting the rights given by the Charter, while in a suit in chancery a decree might be made not only vacating the Charter, but requiring the patent itself to be brought into court and there cancelled by the chancellor. Lord Coke even derives the title of chancellor from his power to cancel the King's letters patents under the great seal, and "damning the enrolment thereof by drawing strikes through it like a let-tice." This probably accounts for the importance which was always attached by the colonists to the physical preservation and possession of the patent itself.

Then having guarded the possession of the Charter, they turned again to the suppression of free speech and censured William Cotton for "reproachfull expressions" against the governor, disfranchised him, and disabled him to bear any military office, and ordered him to be whipped openly not exceeding ten stripes, or otherwise to pay a fine of fifteen pounds.

And thus the colonists, through their General Court sitting in the Boston Town House, continued to administer their government without substantial change, and with very little regard to repeated recommendations and requirements from the English government. At last the Crown appointed commissioners to go to New England and require the colonists to comply with its demands. Information of this fact reached Boston at the session of the General Court in May, 1664, and the

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General Court passed the following order with reference to the expected visit:

This Court, being informed that some of his maj^{ty}s ships are on their voyage to these parts, in which are seuerall gentlemen of quality, doe therefore order, that the capt of the Castle, on the first sight & knowledge of their approach, giue speedy notice thereof to the honored Gouverno^r & Deputy Gouno^r, and that Capt James Oliuer & Capt Willjam Daus are hereby ordered forthwith to repaire on board sajd ships, and to acquaint those gentⁿ that this Court hath & doeth by them present their respects to them, & that it is the desier of the authority of this place that they take strict order that their vnder officers & souldjers, in their coming on shoare to refresh themselves, at no time exceed a convenient number, & that wthout armes, & that they behaue themselves orderly amongst his maj^{ty}s good subjects heere, & be carefull of giving no offence to the people & lawes of this place, and invite them on shoare, provission being made for their present refreshment by the sajd Capt Oliuer, and the management of the military entertainement & the guard is left to be ordered by the major generall & militia of Boston, wth respect to their honnorble reception.

They also took active measures to put themselves in a position to maintain their government. On the same day that they made this provision for the reception of the commissioners, they gave the following order to Captain Richard Davenport:

To take into your care & charge the Island Castle, & battery therevpon, comonly called Castle Island, wth all the great artillery, armes, & amunition belonging therevnto, & see that they be in a posture fitt for the service & defence of this jurisdiction & the authority thereof: yow are also to take charge of the garrison there as capt thereof, and that such officers and souldjers as from tyme to time shall be sent unto yow for yo^r asistance be diligent in attending the dutjes of their places, comāding them to obey yow as your captaine for the service aforesajd; and in case

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any shall attempt assault upon you, or the place committed to your trust, or, in passing by the Castle in ship, barque, or boate, shall refuse to be vnder command, according to y^e duty of your place, and for the better strengthening therevnto, you are, vpon the approach of any vpon the coast or towards any the harbor^s wth in the bay, wth shipping, to giue timely notice by the vsuall signe of flag or flaggs, or such other signall as you shall be appointed by your superio^r; and in case there be approach of aboute three shippes together, you are to give timely alarum, as the lawe provideith. You are to observe & obey all such orders and directions as from time to tyme you shall receive from the Generall Court, councill, major^e generall, or committee of militia. Vntill the Court of Election next, this comission to be of force. Given vnder our hands at Boston, in New England, wth the seale of the collony affixed, this 9th March, 1664.

Upon the arrival of the commissioners they met the governor and the assistants in the Town House on July 26, 1664, and the governor called a special session of the General Court to be held on August 3, 1664, to consider the demands of the commissioners. At this court the commissioners presented their commission and a letter from the King requiring, among other things, a repeal of the law prohibiting persons who were not members of Puritan churches from being admitted as freemen of the Colony. All the General Court did to comply with this requirement was to pass a law with this provision:

All Englishmen presenting a certifficat, vnder the hands of the ministers or minister of the place where they dwell, that they are orthodox in religion, & not vitious in their liues, & also a certifficat, vnder the hands of the selectmen of the place, or of the major part of them, that they are free holders, & are for their oune proper estate (wthout heads of psons) rateable to the country in a single country rate, after the vsuall manner of val-

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luation, in the place where they liue, to the full value of tenne shillings, or that they are in full cõunion wth some church amongst vs, it shallbe in the liberty of all & euery such person or persons, being twenty fower yeares of age, householders and setled inhabitants in this iurisdiccon, from tyme to tyme, to present themselves & their desires to this Court for their admittance to the freedome of this cõnonwealth, and shallbe allowed the priūledge to haue such their desire propounded & put to vote in the Generall Court for acceptance to the freedome of the body pollicke by the sufferage of the majo^r pte, according to the rules of our pattent.

The Court then ordered that a petition be presented to His Majesty at a convenient time for the continuance of their patent privileges, and resolved that "This Court doeth expresse & declare, that it is their resolution, God asisting, to beare faith & true allegiance to his majestje, to adhere to their pattent, (the duties & priuledges thereof,) so dearely obteyned & so long enjoyed by vndoubted right in the sight of God & men." This was only saying that they would bear allegiance to the King so long as he allowed them to govern themselves in their own way under the patent. But they were extremely anxious to preserve the favour of the King, if it could be done by declarations of loyalty without actual submission to his authority, and October 19, 1664, a General Court, called by the governor, deputy governor, and other magistrates, was held, in which a long address to the King was voted signed by Governor Endicott by its order. At the conclusion of it was this language:

ROYALL S^r: It is in your power to say of your poore people in New England, they shall not dye. If wee haue found favour in the sight of our king, let our life be given vs at our petition,

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(or rather that which is dearer than life, that wee haue ventured our liues, & willingly passed through many deaths to obteyne & our all;) at our request let our gouernment liue, our patent liue, our magistrates liue, our lawes & libertjes liue, our religious enjoyments liue; so shall wee all haue yet further cause to say from our heart, "Let the king liue foreuer;" and the blessing of them that were ready to perish shall come vpon your majesty, hauing deliuered the poore that cryed, & such as had none to help them.

But they did not abate the vigour of their authority or the cruelty of their punishments, and at the same session they ordered that a woman who had been tried for burning a house, and found not guilty, but found guilty of theft, "be whipt wth tenn stripes, tomorrow, after the lecture, vpon hir naked body in Boston." And as she had "also binn convicted of many notorious lyes," it was adjudged that she be "whipt againe at Ipswich, vpon hir naked body, as before, wth tenn stripes, at the end of one moneth from the time of hir first whipping."

The royal commissioners, finding that they made no impression vpon the Massachusetts Colony, visited the colonies of Connecticut, Plymouth, and Rhode Island, all of which submitted to the royal demands. The commissioners returned to Boston, and met the General Court in the Town House, in May, 1665. At this time the commissioners demanded among other things that the thirtieth day of January, the day of the execution of Charles I, should be made a day of prayer and fasting, according to the Act of Parliament of April, 1660, which provided that every thirtieth day of January, unless it was vpon the Lord's Day, and then the next

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day following, should be “forever set apart to be kept in all the churches and chapels of the Dominion of England as an anniversary day of Fasting and Humiliation to implore the mercy of God that neither the guilte of that Sacred and Innocent Blood, or those other sinns by which God was provoked to deliver up both us and our King into the hands of cruell and unreasonable men, may at any time hereafter be visited upon us or our posterity.”

To this the General Court stoutly replied that in the Colony each church had liberty to appoint its own days of prayer and fasting, and refused to accede to the demand. Finally on May 24, 1665, the commissioners announced that they intended to sit in Boston as a Court of Appeals from the General Court, as their authority from the King authorized them to do. In answer to this the colonists proclaimed by sound of trumpet from the Town House “that the generall court was the supreamest judicatory in all that province and that the Commissioners pretending to hear appeals was a breach of their priviledges.”

Thus in the Boston Town House the long contest between the Colony and the Crown began. The American Revolution really had its beginning when the Massachusetts Colony, alone of all the colonies in New England, firmly faced the commissioners of Charles II and bravely stood for the right to govern themselves under their Charter. It was then and there, in the Boston Town House, that the spirit of independence was born which a century later flashed into the flames of the Revolution.

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After this the commissioners, finding themselves without power and wholly unable to exercise royal authority in Boston, departed out of the Colony, and reported to the King that they visited the colonies of Connecticut, Rhode Island, and Plymouth, and found them submissive to the commissioners; but they said,

The collony of the Massachusetts was the last and hardliest perswaded to use his Majestyes name in the forms of justice. . . . The commissioners visitted all other collonyes before this, hoping both that the submission and condescension of the other collonyes to his Majestyes desires would have abated the refractorinesse of this collony. . . . But neither examples nor reasons could prevaile with them to let the commissioners hear and determine soe much as those patricular cases which the King had commanded them to take care of and doe justice in, and they proclaimed by sound of trumpet that the generall court was the supreamest judicatory in all that province.

Then the General Court, having thus disposed of the royal commissioners, turned to domestic affairs and suppressed freedom of the press by this order:

For the preventing of irregularitjes & abuse to the authority of this country by the printing presse, it is ordered by this Court & the authority thereof, that there shall be no printing presse allowed in any toune wthin this jurisdiction but in Cambridge, nor shall any person or persons presume to print any copie but by the allowance first had & obteyned vnder the hands of such as this Court shall from tyme to tyme impower; the president of the colledge, M^r John Shearman, M^r Jonathan Michell, & M^r Thomas Shepherd, or any two of them, to survey such copie or coppies, and to prohibitt or allow the same according to this order; and in case of non observance of this order, to forfeit the presse to the country, & be disabled from vsing any such proffession wthin this jurisdiction for the tyme to come; provided, this order shall not extend to the obstruction of any coppie which this Court shall judge meete to order to be published in print.

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A letter from the King, dated February 22, 1666, directed to the governor and Council with reference to hostilities with France, was received July 17, 1666, and His Majesty's declaration of war, which was enclosed in the letter, was solemnly published from the Town House by sound of trumpet. A reply in the name and by the order of the General Court was made to this letter, and September 11, 1666, the General Court procured and sent to the King by special ship a present of two masts.

In May, 1669, there went out from the Town House a further order of the General Court suppressing a free press as follows:

Being informed that there is now in the presse, reprinting, a booke, tit Imitacons of Christ, or to y^t purpose, written by Thomas a Kempis, a Popish minister, wherein is conteyned some things that are less safe to be infused among the people of this place, we doe comend to the licensers of the press, the more full revisall thereof, & that in the meane tyme there be no further progresse in that worke.

In May, 1670, an addition to the law against gaming was passed providing—

That what person or persons soeuer shall bring into this jurisdiction any playing cards or dice, or wth whomsoeuer such cards or dice be found in his or their custody, he or they shall pay, as a fine, the sum of five pounds, the one halfe to the treasury, the other to the informer; but in case any such cards or dice shall come into the custody of any person wthout his knowledge or consent, if he shall carry them vnto the next magistrate or comissioner, within two dayes after his knowledge of them to dispose of them as the said magistrate or comissioner shall see cause, any such person shall be free from the poenaltje.

And then to induce offenders to betray their com-

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panions, the law provided that "if any person that hath plajed or gamed, shall give information thereof, he shall be freed from the poenaltje of the law."

The General Court then dealt with the deceased wife's sister question by this resolve: "In ans^r to the quaestion, whither it be lawfull for a man that hath buried his first wife to marry wth hir that was his first wiues naturall sister, the Court resolves it on the negative."

In June, 1670, the Colony united with Plymouth and Connecticut as the United Colonies for mutual defence and assistance. The articles of this confederation were agreed upon in the Boston Town House. On May 15, 1672, the General Court passed the famous order as to ducking for scolding as follows:

Whereas there is no express punishment (by any lawe hitherto established) affixed to the evill practise of sundry persons by exhorbitancy of the tongue in rayling & scolding, it is therefore ordered, that all such persons convicted, before any Court or magistrate that hath propper cognizance of the case, for rayling or scolding, shall be gagged or sett in a ducking stoole & dipt ouer head & eares three times, in some convenient place of fresh or salt water, as the Court or magistrate shall judge meete.

In October, 1675, the Colony promulgated "Lawes and ordinances of warr, for the better regulating their forces, and keeping theire souldjers to theire duty, & to prevent prophaness, that iniquity may be kept out of the campe," the first one of which was: "Let no man presume to blaspheme the holy & blessed Trinity, God the Father, God the Son, and God the Holy Ghost, vpon payne to haue his tongue bored wth a hott iron."

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In 1676 the General Court authorized the selectmen of the different towns—

To impresse men for the manangement and carrying on of the husbandry of such persons as are called of from the same into the service, who have not sufficient help of their owne left at home to manange the same, who shall be allowed eighteen pence a day for their sajd work, to be pajd by the respective persons for whom they worke, provided it doe not appeare that any persons employed haue been vnfaithfull in their labour, in w^{ch} case the selectmen shall haue power to deduct from their wages such proportion as they shall see meete.

In May, 1677, they passed additional laws with reference to the observance of the Sabbath, one of which provided that—

For the better putting a restraint & securing offendo's that shall any way transgress against the lawes, title Saboath, either in the meeting house by abusie carriage or misbehaviour, by making any noyse or otherwise, or during the daytime, being laid hold on by *any of the inhabitants*, shall, by the said person appointed to inspect this law, be forthwith carried forth & put into a cage in Boston, which is appointed to be forthwith, by the select men, to be set up in the market place, and in such other townes as y^e County Courts shall appoint, there to remain till authority shall examine the person offending, & giue order for his punishment, as the matter may require, according to the lawes relating to the Saboath.

In October, 1678, the whole Court met together in the Town House, and a letter was read from the King, with a copy of an oath of allegiance which it was desired they should take to His Majesty's person and government. This was the oath containing the famous declaration against the power of the Pope. The oath would occupy nearly two pages of this book and reads strangely in Boston to-day. Those who are curious to

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read it and see to what extent the Puritans in their abhorrence of the Roman Church were glad to go at that time, will find it printed in the "Colony Records" (vol. v. pp. 192, 193). The members of the Court then present took the oath, ordered it to be printed, and required it to be taken by all persons within the Colony "of sixteene yeares of age and vpwards," under pain of fine and imprisonment.

They then passed an act punishing with death any attempt to depose the King or preaching or advising against his person and rule, and prepared an address to the King setting forth their action and expressing their loyalty to him, saying at the close: "Wee prostrate at yo^r majesties ffeet, and humbly begg the acceptance of the loyall hearts. . . . Your maj^{ties} most humble subjects & suplicants." And so the colonists continued to administer their government from the Boston Town House with many protestations of loyalty to the King, but with very little real obedience to his commands in any substantial matters.

In the meantime the English government was continually pressing for the surrender of the Charter of the Colony, and the colonists became exceedingly apprehensive lest it might be taken from them, and in 1679 the General Court passed another order as to the custody of the instrument in addition to the one passed in 1664, as follows:

The securing of our originall pattent being matter of great importance, and the former prouission in that respect made in the yeare 1664 being at an end by the decease of most of the persons betruisted in that order, this Court doth therefore order that

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the patent be forthth sent for & comitted to our present honord Deputy Gouverno^r, Capt John Richards, & Capt Daniel Fisher, with Majo^r Thomas Clarke, one of the last comittee who are to take care of the same, to whose wisdom wee refferr it, to dispose of it as may best tend to prevent any inconvenience relating therevnto.

In October, 1681, the freedom of the printing-press was again regulated by giving a monopoly of it to Samuel Sewall, who was authorized to take the management of the printing-press in Boston, and it was provided that "none may presume to sett vp any other presse wthout the like liberty first granted."

The colonists resisted all attempts of the English government to establish customs regulations in Boston. When Edward Randolph came to Boston in 1681 with a commission from the Crown as collector of customs in New England, he laid it before the General Court in the Town House that they might assist him in the execution of his office, but they took no notice of it, and when he "set up an advertisement near the town house to acquaint all persons that a customs'office was erected &c," it was taken down by the marshal by order of the General Court.

At the opening of a Court called by the governor and assistants to sit at the Town House in Boston, January 28, 1684, Governor Bradstreet declared that there were certain or general rumours by a person lately arrived that the Charter was condemned and judgment entered up against the Colony upon proceedings pending in the English courts. Thereupon the General Court passed a law modifying the building law in Boston, and appointed the 12th of March next as

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a day of humiliation and prayer. They then prepared an address to the King praying for the continuance of their liberties and privileges under their Charter, authorized certain persons to solemnize marriages, and directed a communication to be sent to their counsel in England by the hand of their secretary.

In 1685 Charles II died, and James II was proclaimed King. Copies of the proclamation made in London on February 6, 1685, were transmitted to the governor and magistrates of Boston, who communicated them to the whole General Court. The governor and council then ordered the proclamation to be made in Boston. The quaint record of what was done shows it was ordered that—

His maj^{ty} wth all due solemnity be proclajmed in the high street in Boston, w^{ch} was donn on 20th of Aprill, the hono^rble Gouno^r, Dep^t Gouno^r, & Assistants, on horsback, wth thousands of people, a troope of horse, eight foote companys, drums beating, trumpets sounding, his maj^{ty} was proclaymed by Edward Rawson, secre^t, on horsback, & Jn^o Greene, marshall gene^ll, taking it from him, to the great joy & loud aclamations of the people, and a seuenty peec of ordinanc next after the volleys of horse & foote.

God saue the King, &c.

Sewall also notes as to this: "Monday, April 20th, (1685). The King is Proclaimed; 8 Companies, the Troop, and several Gentlemen on horseback assisting; three Volleys and then Canon fired." Then he calmly notes: "This day a child falls upon a Knife which runs through its cheek to the Throat, of which inward Wound it dies, and is buried on Wednesday." April 26 (1685) he notes: "I go to Meeting; staid at home last Sabbath and April 20th by reason of my Sore



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Throat." Evidently the pious Puritan judge took little interest in the proclamation of the accession of King James because he was a Catholic.

February 16, 1685, the General Court passed the first law with regard to trials by jury in cases of contests as to wills, which was published on the 25th of February. Sewall notes this as follows:

Thursday, February 25, The Law about Wills and Administrations is published; and almost as soon as the Drumm had done beating, Mr. Serjt comes with his Petition; and an order is made for a Hearing next Monday, 3 weeks, the 22^d of March: some would have had it sooner, and Mr. Nowel and Self thought it very indecent that it was so soon, especially considering, the Order made upon a Law scarce yet out of the Marshal's Mouth.

On July 25, 1685, the General Court prepared an address to James II, stating that they had received with sorrow the sad tidings of the death of "our late gracious soueraigne, Charles the Scecond, of famous memory, whose transcendent grace & princely favour to us hath been as the dew vpon the grasse, and vnder the shaddow of whose protection, thrō the mercy of God, wee haue enjoyed many happy dayes," and prayed the continuance of their liberties according to their Charter, which they said "will add another jewell to your imperiall diadem, and erect a lasting monument of aeternall fame in the hearts of this & succeeding generations, & foreuer obleige Your maj'tjes loyall & obedjent subjects."

Use of the Town House by the Provincial Government : 1686-1689

MAY 15, 1686, Joseph Dudley, who had been appointed president of "Massachusetts, Maine, Nova Scotia and the lands between," arrived in Boston, bringing his commission, and also a commission to "divers gentlemen" to administer the government; and on May 17, 1686, the judgment vacating the Colony Charter, and the royal commission of Dudley as president of the Province, were read in open court in the Town House "in the presence of divers of the eminent ministers, gentlemen and inhabitants of the town and country," and the president took the oath of office and made a speech. The royal proclamation setting forth the commission was then "published by beat of drum and sound of trumpet" from the east end of the Town House, and the chartered Colony of Massachusetts Bay became a part of a royal province. The inhabitants of Boston, who had given of their scanty substance to build a Town House for a Puritan town and a chartered colony, thus saw it changed from its use as the seat of a representative government into a "Council House" for a royal governor. Sewall, who was present as one of the assistants, notes the occasion as follows:

May 17th, 1686, Generall Court Sits at One a'clock, I goe thither, about 3. The Old Government draws to the North-side, Mr. Addington, Capt. Smith and I sit at the Table, there not being room: Major Dudley, the Praesident, Major Pynchon Capt. Gedney, Mr. Mason, Randolph, Capt. Winthrop, Mr. Wharton come in on the left. . . . The Room pretty well filled with Spectators in an Instant. Major Dudley made a Speech, that was sorry could treat them

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no longer as Governour and Company; Produced the Exemplification of the Charter's Condemnation, the Commission under the Broad-Seal of England—both : Letter of the Lords, Commission of Admiralty, openly exhibiting them to the People; when had done, Deputy Governour said suppos'd they expected not the Court's Answer now; which the Praesident took up and said they could not acknowledge them as such, and could no way capitulate with them, to which I think no Reply. When gone, Major Generall, Major Richards, Mr. Russell and Self spake our minds. . . . Spake to call some Elders to pray tomorrow which some think inconvenient, because of what past, and the Commissioners having several times declared themselves to be the King's Council when in the Town-House.

President Dudley and his Council issued a proclamation, June 8, 1686, giving reasons for publishing his speech made "to the late General Assembly in the Council House in Boston, May 17, 1686," in which he denied their authority to sit or act further.

The General Court, however, met again on May 20, 1686, and passed an order with regard to papers referring to their Charter and Indian titles, as follows:

Ordered by this Court, that Samuel Nowell, Esq, M^r Jⁿ Saffin, & Capt Timothy Prout be a committee for a repository of such papers on file with the secretary as refer to our charter, & negotiations, from time to time, for the security thereof, with such as refer to our title of our land, by purchase of Indians or otherwise; and the secretary is ordered accordingly to deliver the same unto them.

The Court then adjourned to the following October, at which time as the Charter under which they were constituted and elected had been adjudged forfeited, and a new government established, they could not act, and therefore did not attempt to meet.

It may be asked why the colonists, who had forcibly

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resisted the royal commissioners in 1664 in the Boston Town House, quietly submitted to the royal governor and Council in 1686. The answer is obvious. England had then made peace with its enemies, which was not the case in 1664. Charles, before his death in 1685, had by the secret subsidy of France become able, as he thought, to rule without a Parliament to vote supplies, and had prorogued Parliament. James had succeeded to this condition, and was then thought to be able to crush any resistance by the colonists by force of arms; and in addition to this the colonists were then exhausted by their long struggle in the Indian wars for the protection of their homes. The leaders of the colonists in Boston were prudent men, and therefore, while they protested that the revocation of their Charter was illegal, and that the new government deprived them of their rights as Englishmen under Magna Charta, they reluctantly but peaceably submitted to the royal power, and waited for a more favourable time to renew their struggle for representative government.

The immediate effect of the revocation of the Charter threatened to be most disastrous to the colonists. Under the theory of the English law at that time the land which had been granted to the Colony by the King belonged to the Crown, and the title of the colonists was simply that of a conditional grant from the Crown. When, therefore, this grant of the Charter was revoked by judicial proceedings for violation of its conditions, all rights which had been acquired under it were destroyed. Not only were all the laws which the Colony had made, all the towns and other corporations which

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it had created, vacated, but the title of the Colony and of the towns and of their grantees to all lands within the limit of the Charter was destroyed, and the people ceased to own the lands they had wrested from the wilderness and the homes in which they lived. It was also the theory of the English law that the Colony was a part of the "Empire of the King of England," which could not be governed by Parliament, but was simply the property of the Crown, and therefore could be governed without any regard to the principles of Magna Charta and solely according to the will of the sovereign for the time being.

It was upon this theory that the new government, of which Dudley was the first head, under the title of "President," was established. All powers of the government were vested in the president, or governor, and a council appointed by the King, subject to removal by the governor, but all vacancies to be filled by the King.

The governor brought for the use of his government a new seal and a new flag, and was, with the consent of the Council, to make laws in conformity to the laws of England, but subject to the royal sanction, and was especially required to "countenance and encourage" the Church of England. It was impossible for Dudley—who, although an able man and anxious to execute his authority as a royal governor, was really one of the Massachusetts Colony people—to govern satisfactorily to the people or to the King under these conditions, and his rule was short, lasting only from May to December, 1686, when he was succeeded by Sir Edmund Andros.

When it became known that Andros was to succeed

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Dudley the colonists evidently expected a change for the worse. His title was to be "Governor-in-Chief" instead of "President," but that concession was not sufficient to conciliate the sentiment which still demanded a return of the Charter. Preparations were made for Andros's reception which were a careful combination of caution and dignity.

The Council, expecting Andros to arrive some time in November, appointed a committee to wait upon him, and passed the following order as to his reception :

That the Gunners of Boston and Charlestowne put out his Maj^{ty's} Colours on the Forts and Sconces, and have their Gunns ready according to method, and that they prepare the second firing according to the signe to be given them from the Towne House That the Major and his Regiment be in armes at the water side to receive the Governor. That the Captⁿ. of the Castle have his Company ready in armes at a Quarter of an houres warning, and be personally present at the Castle to meet & salute the Governour in passing up to Towne.

Orders were also given for hoisting the King's colours, for receiving the governor with military honours, and "that a Pipe of Wine be put in some convenient place nere the Towne House to be bestowed amongst the Souldiers that shall arrive with S^r Edmund Andros."

Andros did not, in fact, arrive until December, and Sewall gives the following dry but characteristic account of the occasion :

Sabbath, Dec^r. 19, 1686. Day of the Fort-fight. As I was reading the Exposition of Habakkuk 3^d., which this morn sung and read in the family, I heard a great Gun or two, as I supposed, which made me think Sir Edmund might be come; but none of the family speaking of it, I held my peace. Going to Mr. Brad-

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street's Tho. Baker told me Sir Edmund was below, which Winchcomb and Brisco confirmed; said they saw the Frigot with the Flagg in the main Top, and sundry gon down. President and Deputy come to Town; President comes and hears Mr. Willard, whoes Text was Heb. 11. 12. Therefore sprang there of one &c. 113. Psalm sung. Mr. Willard said he was fully persuaded and confident God would not forget the Faith of those who came first to New England, but would remember their Posterity with kindness. One Doct. Faith usually reaps the greatest Crops off the barrenest Ground. Between Sermons, the President and several of the Council goe down. Mr. Lee preaches with us in the Afternoon from Zech. 3. 9, 10.

The Andros government was composed of the governor, deputy governor, and council, without representatives from the towns, and they laid what taxes they thought proper. This was naturally much complained of, but those persons who complained were very severely dealt with. For instance, when the selectmen of Ipswich voted "that inasmuch as it is against the privilege of English subjects to have money raised without their own consent in an assembly of Parliament, therefore they will petition the King for liberty of an assembly before they make any rates," they were prosecuted, imprisoned and fined, some twenty, some thirty, and some fifty pounds. Under the Andros government Randolph was made the "Licenser of the Press," but of this Hutchinson says: "There was not so much room to complain as if the press had been at liberty before. It only changed its keeper" — which was true.

During the three years of government without a Charter, under the hateful rule of Dudley and Andros, the Town House was called the "Council House" by the governor, but the colonists never adopted the

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name. It was long supposed that no public records of the conduct of the Andros government were preserved. Hutchinson gives a list of the Council which he supposed to be genuine. But after he wrote, the original journal of the governor and Council of the first four months of the Andros government was discovered, and is now in the possession of the American Antiquarian Society of Worcester, Massachusetts. A journal was doubtless kept for the entire period, but only partial abstracts of it, which were sent to England from time to time, are now available. A few extracts from Sewall's "Diary," however, show the temper of the times.

Tuesday, January 25, 1687. This is kept for St. Paul, and the Bell was rung in the Morning to call persons to Service. The Governour (I am told) was there. Monday, Jan. 31. There is a meeting at the Town-house forenoon and afternoon. Bell rung for it, respecting the beheading Charles the First.

Both these observances must have been offensive to most of the colonists. Saints' days were scarcely less objectionable to them than references to King Charles as a martyr. "Augt. 24, 1687. Bartholomew-day. Indulgence for Liberty of Conscience published here." This was King James's first Declaration of Indulgence, of April 4, 1687. Again Sewall wrote:

When came from the funeral, (of Mr. Morton) went to the Town-house, and there the L^t Governour deliver'd Maj^r Gen^l Winthrop, &c., their Comission for going to N-York.

Apr. 15. Post comes to Town. Apr. 16. His Excellencies Letter to the L^t Governour and council is read, dated Ap. 4. N. York. Thanks for Praying for Him, which saw by the order for the Fast; doubts not but far'd the better. Shall write more by the next, was now in pain by the Gout.

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Again on July 24, 1688, Sewall wrote Rev. Increase Mather, who was then in London, that "There was a Gallery erected last Thursday, at the east end of the Town House, from whence His Excellency's new Commission was published, 8 Companys being in Arms. About two a clock the Lecture began, Mr. Lawson preached."

November 8, 1688, Sewall notes that "Capt. White comes and presses me in His Majesties Name to appear at the Townhouse compleat in Arms next Monday at 11. a'clock;" and notes that Jonathan Wales offered to serve in his stead for five pounds, and he agreed with him and had him to the Market-place at the hour "where Capt. White listed him in my stead and dismiss'd me." Sewall was then preparing to go to England, and did go on November 22, 1688.

Friday, January 17, 1689, Sewall notes that he "went after diñer to the Town-House, to Mr. Addington, from thence to Mr. Browning's, from thence with Mr. Cotton Mather to the Prisoners who were condemned on Friday." The prisoners were the pirates who were afterwards hanged on Boston Common.

The Town House was also then used as a place of public prayer. Sewall records: "Wednesday, Decemb^r. 17, 1690. A Day of Prayer is kept at the Townhouse, Mr. Allen prays, Mr. Moodey preaches, Mr. Willard prays." Also: "June 17. Fast at the Townhouse, Magistrates, Ministers: Mr. Hale, Bayly, Brinsmead, Torrey, Moodey, Willard pray, Mr. Lee preaches."

The fasts and sermons and lectures in the Town House must have been objectionable to Sir Edmund

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Andros, though he did not actually forbid them. But he faithfully and persistently carried out his instructions. He established a strict censorship over the printing-press; and by many tyrannies excited and increased the actual hatred of the colonists for him and his authority. He permitted towns to meet once a year to choose their own officers, but forbade them to hold meetings at any other times or for any other purposes. He also appointed officials who extorted excessive fees from the people. When the news of the birth of a son to King James was received, Andros issued a proclamation for a general thanksgiving, and ordered the ministers in Boston to cause the proclamation to be publicly read in their congregations, which was much against their will.

Schools and shops were closed by his order on Christmas. Rev. Joshua Moody wrote to Rev. Increase Mather on the 8th of January, 1688-9, saying, "And the shutting up shops on X'mas day, & driving the m^r out of the school on X'mas Holy-daies are very grievous."

The attendance of the Council under his government was very small in number, sometimes not more than four or five, but on January 28, 1686, they passed the following order restricting the freedom of the press:

His Ex^{cl} taking notice of the great danger w^{ch} might ensue by permitting the use of Printing presses in Boston and in the Town of Cambridge unless speedily taken care of and thereupon ordered That no Papers, books or Pamphlets be henceforth printed either in Boston or Cambridge untill licensed according to law and that no printer be admitted and licensed to print untill he hath given five hundred pound bond to his Ma^{ty} in the Secretary's office not to print any unlicensed papers, books or pamphlets, That

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copies of Books &c. to be printed be first perused by Mr Dudley late President and upon his allowance of them for the Press that one copie thereof so allowed and attested by him be brought to the Secrys office to be left on record and recieve from him an Imprimatur.

Use of the Town House by the Provisional Government : 1689-1692

And by the Provincial Government under
the Province Charter: 1692-1711

NOVEMBER, 1688, the Prince of Orange landed in England, and the government there was changed by the accession of himself and his wife, as William and Mary. Information of this revolution in England was brought to Boston, April 4, 1689, by one John Winslow, who came from the island of Nevis, bringing with him a copy of the Prince's Declaration. Upon his landing Andros sent the sheriff to bring him to his house, and asked for the declaration, which Winslow declined to give to him, and Andros therefore sent him to prison upon the charge of bringing "traiterious and treasonous libels" into the Colony.

The declaration, however, was speedily printed and circulated as a broadside, and on April 18 the people rose throughout the town, seized the friends of Andros, including members of his Council, the sheriff, Randolph, and others, and confined them in the jail. To insure the safe keeping of these persons they also shut up in the jail the jail-keeper, and put Scates, "The Bricklayer," in his place. They also seized the captain of the royal frigate *Rose*, in the harbour, who was in the town, and shut him up in jail. Then Simon Bradstreet, Thomas Danforth, John Richards, Elisha Cooke, and Isaac Adington, who were respectively governor, lieutenant governor, and of the Court of Assistants at the close

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of the government under the Charter in 1686, came to the Council Chamber in the Town House, and were joined by many prominent citizens of the town. There they drew up and sent to Andros the following paper:

At the *Town-House* in *Boston*, *April* 18. 1689.

SIR,

OVR Selves and many others the Inhabitants of this Town, and the Places adjacent, being surprized with the Peoples sudden taking of Arms; in the first motion whereof we were wholly ignorant, being driven by the present Accident, are necessitated to acquaint your Excellency, that for the quieting and securing of the People inhabiting in this Country from the imminent Dangers they many ways lie open and exposed to, and tendring your own Safety, We judge it necessary you forthwith surrender and deliver up to the Government and Fortification to be preserved and disposed according to Order and Direction from the Crown of England, which suddenly is expected may arrive; promising all security from violence to your Self or any of your Gentlemen or Souldiers in Person and Estate: Otherwise we are assured they will endeavour the taking of the Fortification by Storm, if any Opposition be made.

To Sir Edmund Andros Kt.

This address was also issued as a broadside in black-letter, and a copy is now in the library of the Massachusetts Historical Society.

Then a long paper, entitled "The Declaration of the Gentlemen, Merchants and Inhabitants of Boston and the Country Adjacent," which had obviously been prepared before, was read from the east end of the Town House. The imprint on this declaration is "Boston, Printed by Samuel Green and sold by Benjamin Harris, at the London Coffee House, 1689."

Hutchinson says: "A long declaration was read from the balcony or gallery of the Town House. . . . There

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would be room to doubt whether this declaration was not a work of time, and prepared beforehand, if it did not appear by the style and language to have been the performance of one of the ministers of Boston [Mr. Mather] who had a remarkable talent for very quick and sudden composures. Besides, it was not printed for several days after, and perhaps was corrected and enlarged."

Andros surrendered and was brought from the Castle to the Town House, and then confined for that night in the house of Mr. John Usher, opposite the Town House. The next day he was taken to the fort and there confined under strict guard. This uprising against the Andros rule was wholly Puritan. The Episcopalians took no part in it, but described it in the records of King's Chapel as "a most impious and detestable rebellion against the King's Majesty's Government." Governor Andros's own account of these exciting occurrences was that he went to the Town House, —it being the "Ordinary Councill day,"—and that—

When he came to the Councill Chamber he found severall of the sayd former popular Majestrates and other cheife p^rsons then p^rsent, with those of the Councill, who had noe suitable regard to him, nor the peace and quiet of the Countrey, but instead of giving any assistance to support the Government, made him a prisoner and also imprisoned some members of the Councill and other officers, who in pursuance of their respective dutyes and stations attended on him, and kept them for the space of ten months und^r severe and close confinement untill by His Ma^{ties} comand they were sent for to England to answer what might be objected to them, Where, after summons given to the p^rtended Agents of New England and their twice appearance at the Councill Board, nothing being objected by them or others, they were discharged.

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He also said: "The Confederates at Boston possessed themselves of all His Ma^{ties} stores, armes ammunicion and other implements of warr, and disabled His Ma^{ties} man of war the Rose frigatt by secureing the Comand^r and bringing her sayles on shoare; and at the same time haveing imprisoned the secretary and some other officers, they broke open the Secrys Office and seized and conveyed away all records papers and wrightings."

When the news of the landing of William of Orange on the English coast was received in Boston, Andros wrote to a friend, "There is a general buzzing among the people, great with the expectation of regaining the old charter."

On April 20, 1689, a provisional government was formed in the Town House, called "The Council for the Safety of the People and Conservation of the Peace." Simon Bradstreet, the last governor under the Charter, was made president. The Council asked the towns to send deputies, "not exceeding two for each town, except Boston four, to form an assembly;" and sixty-six persons, who were thus sent, met at Boston in the Town House and acted as representatives of the people. This government continued to administer the affairs of the Colony as a provisional government until the arrival of Sir William Phips with the new Charter, in 1692.

In June the following order to remove the arms in the fort to the Town House was made and executed:

Ordered That Capt Edw^d Wyllys Comand^r in Cheif at the Fort in Boston take a True Inventory of all the arms, that he finds left in the Fort, and Remove the Same to the Town house, taking Care, that they be Secured from loss, and Spoil.

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This provisional government of the Colony ruled until May 16, 1692, or a little more than three years. In the meantime, chiefly by the activity and ability of the Rev. Increase Mather, one of the three agents who had been sent to England to obtain a renewal of the Colony Charter, a new Charter was granted by William and Mary on October 7, 1691, and Sir William Phips was appointed governor under it.

The new governor arrived at Boston with the new Charter, Saturday, May 14, 1692, towards evening. On Monday, the 16th, he was conducted from his house to the Town House by the troops, magistrates, ministers, and principal gentlemen of Boston and the adjacent towns. Sewall notes that "Eight Companies and two from Charlestown guard Sir William and his Councillors to the Town House where the Comissions were read and Oaths taken." At the Town House prayer was first offered by the Rev. Mr. Allen, one of the ministers of Boston, and then the new Charter was published with sound of drum, and the governor's commission was read and published; and then the venerable Bradstreet, who was the last governor under the old Charter, and had been president of the Council of Safety from the overthrow of the Andros government in 1689, resigned the executive chair to Governor Phips. Another prayer was then offered by the Rev. Mr. Morton, a minister of Charlestown, and the government under the second Charter began.

This Charter recited the forfeiture of the old Charter, but confirmed the grants which had been made under it by the General Court, and united Massachusetts,

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Plymouth, Maine, and "Accada, or Nova Scotia," into one Province by the name of "Our Province of the Massachusetts Bay in New England." The government of this Province was to be by a governor, deputy governor, and secretary, appointed by the Crown, and twenty-eight assistants or councillors to the governor, the first of whom were appointed by the Charter, Simon Bradstreet being the first named, to serve until May, 1698. Then their successors were to be chosen by the General Court, eighteen for Massachusetts, four for Plymouth, three for Maine, and one for the other territory of the Province. A "Great or General Court or Assembly" was to be held in May each year, and at such other times as the governor should appoint, consisting of the governor, the Council, and two freeholders elected from each town or place in the Province by majority vote of the freeholders and other inhabitants thereof. The General Court was authorized to "erect judicatories and courts of record and other courts," the officers of which were to be appointed by the governor, with the advice and consent of the Council. Probate of wills and administration of estates was vested in the governor and Council. The General Court was authorized to make laws not repugnant to the laws of England, subject to the approval of the governor, and also to the approbation or disallowance of the Crown; and the Charter provided that "forever hereafter there shall be a liberty of conscience allowed in the worship of God to all Christians (except papists) inhabiting, or which shall inhabit or be resident in our said Province or territory."

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When the administration of Governor Phips under the new Charter began, the people of the Colony were much exhausted and impoverished by the long French and Indian wars. Their treasury had been bankrupted by the expense of the expedition to Quebec; there was nothing with which to pay public creditors; paper money was driving out real money; payment of taxes was burdensome and the collection of them exceedingly difficult; the authority of the courts was disputed, and practically everything had come to a standstill in the Colony, except the mere cultivation of the soil for subsistence.

In addition to this, a strange delusion had come upon the people, called the "witchcraft delusion." The people of Massachusetts, in common with Christian people elsewhere at that time, believed in the existence of witchcraft, and it had always been a crime in the Colony punishable with death. The act against capital crimes provided that "if any man or woman be a witch, that is, hath or consulteth with a familiar spirit, they shall be put to death." Before the arrival of Governor Phips many accusations of the crime of witchcraft had been made, and nearly a hundred persons were then imprisoned and awaiting trial upon that charge. The new Charter provided that judicial courts should be constituted by the new General Assembly or General Court, but the members of that body were not then even chosen, and there was no legal court by which these persons could be lawfully tried. The state of the public mind, however, was such that they could not be released, and therefore Governor Phips, by the ad-

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vice of the councillors appointed in the Charter, constituted a special commission of seven persons to try these cases.

This commission went out from the Town House, with the cruel and bigoted Stoughton at its head. In June they tried and condemned one Bridget Bishop to be hanged, and she was hanged. Four weeks after, this so-called court sentenced five women to be executed for witchcraft, and they were all executed. One of them, Mrs. Nourse, an eminent woman of excellent character, was at first acquitted; but Stoughton sent the jury out again, instructing them that she had confessed her guilt, and they then returned a verdict of guilty. At the next session, in August, six persons, including one minister of the gospel, were convicted and executed. During the next month fifteen persons, six women in one day, and eight women and one man on another day, were tried, convicted and sentenced; and eight of them were hanged. One of them, Giles Corey, who was eighty years of age, refused to plead, *i. e.* to answer guilty or not guilty, saying that the whole thing was an imposture, and he was pressed to death with heavy weights laid on his body, according to the rule of the English law subjecting persons to this punishment who refused to plead. In October the General Court met and constituted a regular court which superseded the special witchcraft commission. Twenty-six persons were indicted and tried before this court, but only three were found guilty, and these were all pardoned.

Most of the judges and jurors who participated in these trials repented, and many of them publicly de-

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clared their faults and entreated forgiveness. Judge Sewall, one of the commissioners, made written public acknowledgment of his great offence in the South Church in Boston, and to the end of his life kept every year a day of private humiliation and prayer for his sins in that matter.

In October, 1710, the last year in which the Town House stood, the General Court sitting therein passed an act annulling all the convictions for witchcraft twenty years before, and making grants to the heirs of those who had been executed in acknowledgment of their pecuniary losses, and thus some tardy atonement was made in the Town House for the great wrongs which had been done under a commission issued from it nearly twenty years before.

The witchcraft delusion among the Massachusetts people, however, was not peculiar to them. It had existed for centuries. In 1484 Pope Innocent VIII proclaimed the wide prevalence of the crime and enforced on all good Catholics the duty of extirpating it, which, it has been calculated, caused the death of not less than one hundred thousand people in Germany alone. In the next century a thousand witches are said to have been slaughtered in Lombardy, and in the century following about five hundred persons charged with witchcraft were executed in the republic of Geneva, the home of Calvin, which had then a population not more than half the population of Massachusetts when twenty people were there executed for witchcraft. Similar delusions existed in Sweden and in England. At the time of the Long Parliament more than one hundred peo-

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ple were executed for witchcraft in Essex and Sussex alone, with the approbation of the ministers. In the year that King Charles was executed it is said that fourteen women were burned as witches in a village that had but fourteen families.

After the arrival of Governor Phips a new General Assembly was elected, and government under the provincial Charter began. The new government was administered from the Town House, where the General Assembly and the courts sat, and in which the governor and Council sat in the Council Chamber. The building was still called by the people the Town House, although officially it was known as the Province House. The colonists, who had maintained a practically independent government under the old Charter for nearly half a century, did not readily yield to a government under which the governor was appointed by the Crown, and the election of councillors, although by the General Assembly, was subject to the approval of the governor; and the power reserved by the Charter to the English government of disapproving any law of the province within three years, though not at first a cause of trouble because the power was not at first exercised, ultimately gave great dissatisfaction.

Phips was a man of violent temper which brought him into many personal encounters and difficulties, and finally, in November, 1694, caused him to be recalled to England, where he died in February, 1695. This left the office of governor to be administered by Lieutenant-Governor Stoughton. The following curi-

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ous entry in Sewall's "Diary" shows how Stoughton's taking up the duties of governor was received:

Dec. 4, 1694. Lieut. Governour calls at 's entrance into the Town; I told him I had spoken to Mr. Willard to pray; tells me of his intended Treat at Mr. Coopers, and enquires whom He had best to invite. Between 2. and 3. P. M. we meet at Mr. Secretaries, from thence go to the Townhouse; viz. Lieut. Governour, Mr. Danforth, Gedney, Russel, Cook, Phillips, Brown, Hathorne, Addington, Sewall, Lynde, Hook, Sergeant. Mr. Willard prayed. Then Lieut. Governour made a brave Speech upon the occasion of the Government's being fallen on Him. After this Col. Hutchinson came in and made 13. . . . Lieut. Governour invites, and we go to Mr. Cooper's, where a Splendid Treat is provided, most cold meat. Councillors, Ministers, Justices there, and Col. Shrimpton, Mr. E^m Hutchinson, &c. Mr. Increase Mather Crav'd a Blessing; Mr. Willard return'd Thanks. I mov'd Mr. Willard and Mr. Cotton Mather, that, seeing the Old and South Church fell short in their singing on the Thanksgiving-day, might make it up now, if they saw meet: Mr. Willard said would sing what He intended then, prevented by the night: Ask'd Lieut. Governour and read the 47. Ps. Clap hands.—Spake to me and I set it.

During the administration of Stoughton the home government began to exercise its power of disallowing the colonial laws. The first General Court under the provincial Charter had enacted as their first statute a provision that all the local laws which had been made under the old colonial Charter, that were not repugnant to the laws of England and inconsistent with the new Charter, should be in force, until the November following, at which time this provision was renewed without limitation of time. But before the three years elapsed, the Privy Council disallowed this act, and directed that

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in any new law for the same purpose the laws to be continued should be particularly specified. Fifteen of the forty-five acts passed at the first two sessions of the General Court under the new Charter were disallowed by the Privy Council in one day, among others the one incorporating Harvard College, because no power was reserved in it to the King to appoint visitors. An act for the prevention of illegal imprisonment was disallowed, because the writ of *habeas corpus* had not been in any of the colonies; and an act declaring that the colonists were exempt from all taxes except those levied by the General Court was also disallowed. On July 12, 1696, Sewall records that he "went to the Townhouse and after a while P (*per*) Mr. Whittingham rec'd the Packet which makes void many of our Laws; viz. Courts, Colledge, Habeas Corpus, Forms of Writts &c. and Confirms many others." The home government began also to enforce the navigation laws, to which the colonists had always objected.

Finally after much delay, caused, perhaps, in part by these difficulties, the Earl of Bellomont, an Irish peer, was appointed governor, not only of the Massachusetts Province, but of New Jersey and New Hampshire as well, and reached New York in April, 1697. He remained in New York nearly a year, when he came to Massachusetts in answer to a request from the General Court. Much difficulty had arisen before his arrival in establishing the courts of the province. Laws passed by the General Court for that purpose had been repeatedly disallowed in England; but finally, under the administration of Bellomont, a law was passed which

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was not disallowed, and the judicial system of the Colony was permanently established.

Bellomont, or as he was termed from his family name, Governor Coote, remained in the province only about fourteen months. He was amiable and personally agreeable, and the General Court made two grants to him as governor of a thousand pounds each, larger grants than ever made to a governor before or after. Complaint was made that these grants were always declared by the General Court to be presents, or to be given in their own discretion, and the royal governors continually urged that their salaries should be put upon a fixed basis, which the General Court would never do. Bellomont died in New York in March, 1701, and Stoughton again, as acting governor, ruled in the Council Chamber until his death in July of the same year. Then under the provision of the Charter the Council became the chief executive and exercised the powers of the governor from the Council Chamber in the Town House, until the arrival of Joseph Dudley as governor June 11, 1702. A committee of the Council, of which Sewall was one, was sent to meet him. Sewall's account of what took place, including his own speech, was written by him in his diary at length as follows:

Mr. Addington, Eliakim Hutchinson, Byfield and Sewall, sent per the Council, go with Capt Crofts in his Pinace to meet the Governour, and Congratulat his Arrival; We get aboard a little before got within Point Alderton; Capt Heron introduced us; After had all saluted the Gov^r. I said,

“Her Majesty's Council of this Province have comanded us to meet your Excellency, and congratulate your safe Arrival in the Massachusetts Bay, in quality of our Governour: Which we do

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very heartily; not only out of Obedience to our Masters who sent us; but also of our own accord. The Cloaths your Excellency sees us wear, are a true Indication of our inward Grief for the Departure of K. William. Yet we desire to remember with Thankfulness the Goodness of God, who has at this time peaceably placed Queen Anne upon the Throne. And as Her Majestys Name imports Grace, so we trust God will shew Her Majesty Favour; and Her Majesty us. And we look upon your Excellency's being sent to us, as a very fair First-Fruit of it, for which we bless God and Queen Anne."

I was startled at 2 or 3 things; viz. The L^t. Governour (Thomas Povey) a stranger, sent, whom we knew nor heard anything of before: When the Gov^r first mention'd it, I understood him of Mr. Addington. I saw an ancient Minister, enquiring who it was, Governour said, twas G—— Keith, had converted many in England, and now Bp. London had sent him hether with Salery of 200. Guineys per añum. I look'd on him as Helena aboard. This man crav'd a Blessing and return'd Thanks, though there was a chaplain of the Ship, and another Minister on board. Governour has a very large Wigg. Drink Healths, About one and Twenty Guns fired at our leaving the Centurion; and Cheers, then Capt Scot and another Ship fired. Castle fired many Guns; Landed at Scarlet's Wharf, where the Council and Regiment waited for us; just before came at the North-Meetinghouse Clock struck five. Was the Troop of Guards, and Col. Paige's Troop. March'd to the Townhouse. There before the Court; Ministers, and as many else as could crowd in, the Governour's and L^t Gov^{rs}. Comissions were published; they took their Oaths laying their hands on the Bible, and after Kissing it. Had a large Treat. Just about dark Troops Guarded the Gov^r to Roxbury. He rode in Major Hobby's Coach Drawn with six Horses richly harnessed. By mistake, my coachman stayed in the yard, and so Joseph and I went alone. Foot gave 3 very good Volleys after the publication of the Comissions, and were dismiss'd. Mr. Mather crav'd a Blessing and Mr. Cotton Mather return'd Thanks.

Dudley had been perhaps the most unpopular man in the Colony, and in the revolt of 1689 was arrested



Joseph Dudley

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and imprisoned for about five months by the Bradstreet provisional government. He went to England upon his release, and was afterwards governor of the Isle of Wight and member of Parliament. It was a strange turn of fortune when he came back to the Town House as a royal governor under Queen Anne. He was a man of craft, intrigue, and of great ability. As governor he aped royalty and required the speaker and General Court to attend before him. On his arrival, following the example which had first been set by Bellingham, of addressing the legislature in a speech, he made an address to the General Court which provoked much popular indignation, and they took no action upon any of his proposals for legislation except to make him a grant of five hundred pounds.

Dudley was governor during the last nine years of the life of the Town House. The first part of the time there was constant discord between him and the General Court. He asked them to appropriate money for fortifications in the Province outside of Massachusetts, which they steadily refused to do. He insisted that they should provide fixed and permanent salaries for the governor and the judges, and this they persistently refused to do. He desired them to appropriate money to be spent at his discretion, and they refused to appropriate money for any purpose not specified in the act of appropriation. He exercised his power to disapprove the election of councillors against those who had been his former opponents and in favour of his personal friends, and the General Court resented this by reducing their grants for his salary. But time and custom ease all

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things, and gradually these difficulties were either reconciled or tolerated by both parties, except that the General Court wisely retained the power of the purse, and would make no fixed grants of salaries to a royal governor or his appointees. Dudley was of the Puritan stock, and desired to keep his office and his home in the Colony, and the colonists, beneath all their objections to him and his rule, feared that if he ceased to be governor they were likely to have a worse one in his stead.

The last few years of the life of the Town House were unfortunate days for the Colony and the town. The population of the town had ceased to increase. In 1705 only seven new inhabitants were admitted; in 1706, two; in 1707, one; in 1708, four; in 1709, five; and in 1710, two. Paper money, called bills of credit, had been issued to such an extent as to drive good money out of the Colony, and in 1708 Dudley asked the General Court to pass laws to prevent bills of credit being "undersold." Municipal officers in Boston were complained of and preached against as administering the affairs of the town for their selfish purposes. The affairs of the town had come into such disorder that in order to remedy them a committee of thirty-one citizens, including the selectmen, was appointed to draft an act of incorporation as a city or borough, and such an act was reported to the town meeting and voted down March 14, 1709, by a large majority.

The following from Sewall's "Diary" shows the Puritan feeling as to uses made of the Town House during the last years of its existence:

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November 5, 1697, he notes: "Guns fired with respect to the King's Birth-day. At night great Illumination made in the Town-house Governour and Council and many Gentlemen there."

Febr. 5th. 1703. Col. Elisha Hutchinson. Col. Penn Townsend, Capt. Andrew Belcher, and Samuel Sewall rid to Roxbury in the Hackney coach; Capt. Jeremiah Duñer, Mr. Edward Bromfield on horseback: Went on purpose to speak to the Governour against having Illuminations, especially in the Town house; That so the profanation of the Sabbath might be prevented. I said twould be most for the Honor of God; and that would be most for the Honor and Safety of Queen Anne. Governour said twould be hard for him to forbid it, considering how good the Queen was, what successes God had given her. I answered, It could not be introduced into the Town-house without his Excellency's Order, for under his Excellency the Government of the Town was (partly) comitted to us. Gov' answer'd not a word. Others urged our Law, the Grief of Good People, his best Friends. And I think all was said between us, that could be said.

Tuesday, Apr. 23, 1706 Govr. comes to Town guarded by the Troops with their Swords drawn; dines at the Dragon, from thence proceeds to the Townhouse, Illuminations at night. Capt. Pellham tells me several wore crosses in their Hats; which makes me resolve to stay at home; (though Maxwell was at my House and spake to me to be at the Council-Chamber at 4. p. m.) Because to drinking Healths, now the Keeping of a Day to fictitious St. George, is plainly set on foot.

Destruction of the Town House

I AM loth to write of the destruction of the Town House. The study of the people by whom it was built, of their use of it, of what they did in and about it, makes them all real and personal. We can see the little band of Puritans under Winthrop building their rude dwellings about the Great Street and along the High Street, and in the crooked ways leading out of these, and slowly adapting their customs and making their laws to suit the conditions about them. We can see the pious Captain Keayne laboriously writing the pages of his voluminous will, framed not only to vindicate himself from injustice, but also to benefit the citizens of the town; and considering the question of a town house with a market beneath, a conduit for the supply of water by its side, and rooms for the selectmen and the elders, the town meetings, and a library chamber within.

We can see the inhabitants giving of their scanty means in small moneys and in produce and merchandise to add to the bounty of Captain Keayne sufficient to build the Town House. We can see the people helping at the raising of the building, and watching its construction with all the interest which that first great public work in Boston naturally excited. We can see the building standing in simple civic dignity at the head of the Great Street, encircled within its arms, with the High Street stretching southward to the fields and northward to the sea, and with the narrow Prison Lane leading westward by the prison and the school-house to the burying-ground. We can see the sober, sombre

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faces of the Puritans at the first town meeting in the Town House, and in the use of "the little room" for the selectmen, the Library Chamber and the granary in the Town House. The structure doubtless seemed as commodious and perfect to them as any public building since erected in Boston has seemed to their descendants.

We can see orderly civil government slowly worked out by the debates and the contests within the wooden walls of the Town House; executive, legislative and judicial functions separated, the right of taxation limited, a code of written laws established, and all the fundamental principles which underlie our constitutional government in Massachusetts to-day practically established by the Puritan colony in the Boston Town House.

We can see the citizens of Boston in their town meetings, instructing their representatives in the General Court as well as dealing with the various subjects of municipal government, regulations for building, care of streets, laying out of highways, primary education, industrial education, protection against fire, providing for the watch and ward and the policing of the town, regulating the hours and prices of labour, providing for the relief of the poor, and governing in their action all the necessities of the people as they slowly developed an efficient municipal government.

We see the shops of the artisans, the traders, and the booksellers cluster about and beneath the Town House, and all the commercial and intellectual activities of the town come to be there centred.

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One seems to be acquainted with the leaders in all this, and to see Endicott, Leverett, Bellingham, Bradstreet, Stoughton and Sewall; and Wilson, Mather, Mayhew and Cotton, ministers of Boston, walk the crooked streets of the little town and sternly rule its affairs.'

We see Andros, the representative of royal authority, clad in scarlet and in lace, walk up the Great Street, and take possession of the Town House as a Province House after the revocation of the Colony Charter. We see him, dominant and despotic, summoning the ministers of Boston to the Library Chamber and commanding them to open their meeting-houses to the worship of the English Church. We can imagine the surprise of this soldier of fortune and representative of power when he met a resisting force of which he had never dreamed,—the Puritan conscience,—and was firmly told by the ministers that what he demanded could not be because it "did entrench upon their conscience." We can see him yielding for a time to a compromise by which in the Library Chamber of the Town House worship according to the Church of England was first had in Boston "by authority," and then later, impatient with opposition, forcibly seizing upon the Old South Meeting-house for that worship. We can see the uprising of the people against Andros and see him brought to the Town House and imprisoned; and then see the mild rule of Bradstreet and the provisional government, and finally a government established in the Town House under a new charter as a compromise between the colonists and the Crown. We can see Dudley vainly striving

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with all his great ability to make the compromise of the new charter acceptable to the Crown and to the colonists.

We can see commerce and trade increase, a church provided for worship by members of the Church of England, even a Quaker meeting-house officially approved, and the stern severity of the Puritan rule slowly modified and relaxed.

The Town House was the centre of all this and more, and one does not willingly write of its destruction. I wish it could have stood down to the present time, like the old Rathhouses of Germany and the ancient municipal buildings of England, as a visible evidence of the early conditions of Boston and of the Colony, and a perpetual reminder of the olden time and of the trials, the suffering and endurance of the Puritans, whose conscientious persistence achieved so much for liberty and law. But this was not to be. It was destroyed in 1711, and its destruction came by fire, that greatest danger to which the early settlers of Boston were exposed.

There was no regular laying out of streets, and the original territory was so limited that the allotments to the settlers were necessarily small. The ways upon which the early dwellings were built were crooked and narrow; for lack of other material their houses were mainly of wood and with thatched or wooden roofs. In 1658 there was a fire which destroyed many dwellings. In 1675 the North Meeting-house, several warehouses, and about forty-five dwellings were destroyed by fire. In 1679 a fire destroyed eighty dwellinghouses, seventy stores, and several vessels lying at their docks.

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In consequence of this fire in 1670, the first building law was passed as follows:

This Court having a sense of the great Ruines in Boston by Fire, and hazard still of the same by reason of the joyning and nearness of their buildings; for prevention of damage and loss thereby for future, Do therefore Order and Enact; That henceforth no dwelling house in *Boston* shall be erected and set up, except of stone or brick, and covered with Slate or Tyle, on penalty of forfeiting double the value of such buildings, unless by allowance and liberty obtained otherwise from the Magistrates, Commissioners and Selectmen of *Boston*, or major part of them.

The execution of this law was suspended the next year for three years, the General Court saying they did it "considering the present inability of many Persons that have suffered great loss by the late Fire, to rebuild with Brick or Stone."

In 1688, however, the General Court again ordered—

That henceforth no Dwelling-house, Warehouse, Shop, Barn, Stable, or any other Housing, shall be Erected and set up in *Boston*, except of Stone, or Brick, and covered with Slate or Tyle; on penalty of forfeiting one hundred pounds in Money to the use of the said Town for every House built otherwise, unless by allowance and liberty obtained from this Court, from time to time.

In 1692 this law was modified so that it should be lawful "to Erect any small building; Providing, it do not exceed eight Foot square, and seven Foot studd, of Wood or Timber; any Law to the contrary notwithstanding: Provided they have the Approbation of the Select-men of said Town."

Permission to build larger wooden buildings was, however, frequently granted by the selectmen, and even meeting-houses were constructed of wood. Sewall makes the following quaint entry in his diary under date

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of August 23, 1708: "*mane.* at Council, A Petition for building a Quaker Meeting-house with Wood, pass'd by the Selectmen and Justices of the Town; was now offer'd to the Gov^r and Council: I opposed it; said I would not have a hand in setting up their Devil Worship."

At last the dreaded calamity occurred, and the Town House was destroyed by a great fire on October 2, 1711. This fire also destroyed the homes of over a hundred families, a large part of what is now State Street and Washington Street, and the meeting-house. The best account of it is found in "The Boston News-Letter," as follows:

THE BOSTON NEWS-LETTER. *Numb. 390.*

From Monday October 1, to Monday October 8, 1711.

BOSTON. On Tuesday the second of October, about eight a Clock in the Evening, a Fire broke out in an old Tenement within a back Yard in Cornhill, near to the First Meeting-House, occasioned by the carelessness of a poor Sottish Woman by using Fire to a parcel of Ocum, Chips and other combustible Rubbish, which soon raised a great Flame, and being a time of great drought, and the Buildings very dry, the Flames took hold of the Neighbouring Houses, which were high and contiguous in that part, notwithstanding all application and diligence to extinguish and prevent the spreading thereof by throwing of Water, and blowing up of Houses. The Fire made its progress throughout Cornhill on both sides of the Street, and on both sides of the upper parts of King and Queens-street; the Town-House and the Meeting-House, with many fair Buildings were Consumed, and several persons kill'd and burn'd.

Some Gentlemen took care to preserve Her Majesties Picture that was in the Town-House.

Sewall notes the fire as follows:

Burnings
BEWAILED:
IN A
SERMON,

Occasioned by the
Lamentable FIRE
Which was in BOSTON, *Octob. 2.*
1711.

In which the Sins which Pro-
voke the LORD to Kindle
Fires, are Enquired into.

By **Increase Mather, D.D.**

Pfal. LXXVIII. 21. The Lord heard this, and was Wroth: So a Fire was Kindled against Jacob; and Anger also came up against Isracl.

Luke XIII. 4, 5. Those Eighteen upon whom the Tower of Siloam fell, & slew them, think you that they were Sinners above all men that dwelt in Jerufalem? I tell you, Nay, but except you Repent, you shall all likewise Perish.

Boston Printed: Sold by Timothy Green, 1711.

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7^r. 18th. Third-day, set out for Boston; Baited at Dedham. Refresh'd our selv's at Mr. Belcher's: Got well home a little after Diñer time: we recreated our selves with Mr. Watt's Poems, going and coming. *Laus Deo Servatori*. About 7 or 8 a'clock of the night between the 2^d and 3^d of October, a Dreadfull Fire hapens in Boston; broke out in a little House belonging to Capt. Ephraim Savage, by reason of the Drunkenness of — Moss; Old Meeting House, and Town-House burnt. Old Meeting-house had stood near 70. years. I had a house burnt, wherein Mr. Seth Dwight was Tenant, who paid me Twenty pounds per añum. Oct. 3. The Lt. Gov^r. Taylor arrives. He saw the Fire 20 Leagues off.

Octob^r. 11. Fifth-day, Fast. A Collection was made for sufferers by the Fire; Two Hundred Sixty odd pounds gathered at the South church, the oldest Meetinghouse in Town.

The ministers immediately improved the occasion by sermons and moral admonitions. The sermons not only give information as to the fire, but are interesting side-lights upon the times.

Increase Mather preached a sermon in the North Church, which was printed with the title-page shown on the facing page.

In this sermon, copies of which are now very rare, Mather discoursed upon many things connected with fires, with all the abundance of Scriptural quotation which he so much affected. Among other things he said:

Desolating Fires are an awful Judgment, but of the Lords kindling. When the Children of *Israel* were encamped in the Wilderness, *the Fire of the Lord burst among them, and consumed them that were in the utmost parts of the Camp; Moses called the name of that place TABERAH, (which signifies BURNING,) because the Fire of the Lord burnt among them.*

He referred to fires in various towns in England, and especially to the great fire in London on September 2, 1666, and then passed in review all the previous

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great fires in Boston. Speaking of the fire he said :

It is in respect of some Circumstances attending it, the most Awful Stroke from God that ever came upon *Boston*, or upon *New-England*. Many Houses are in Ashes; and more than an Hundred Families Burnt out of Doors. An House set apart for Solemnizing the Worship of God, is laid in Ruines. . . . In this dismal Night the *Town-House* also, in which our General Assemblies, Councils, and Courts of Judicature were wont to Meet, and in which *Two Synods* have Sat, was Consumed with the Fire; and in that there is an Awful Voice from Heaven speaking to the whole *Province*. . . . There is another Particular which makes a peculiar *Accent* of Sorrow in this Burning, *viz.* That many Lives have been Tragically Lost; the like (as to Number) has not been in former Fires amongst us. We know not how many there are who have thus Perished. 'Tis supposed Eight Persons at least, some think many more.

But, he said:

We have cause to *Sing of Mercy*, as well as to Lament under Judgment: Sparing Mercy in that the Town has stood so long: It is almost a Miracle, that such a Timber Town has stood for so many years, considering how many prodigious Sinners there are, who rejoyce at such Calamities, hoping for an opportunity to Steal their Neighbours Goods: And how many careless Servants, and how many Drunken Wretches there are in the Town: The Fire we now *Bewail this day*, is supposed to be occasioned by a wicked drunken Woman. And let those who have their Houses taken from them, be Thankful that it was not done sooner.

He preached against the sins of the people of Boston, especially against extravagance in dress, saying:

The Word of God allows those who are Men of Estates and such as are in Place and Dignity above others, to be distinguished by the Costliness of their Apparel. If they *who are in Kings Houses are Cloathed in soft raiment*, if they wear Silk, and Sattens, and Velvet, and Purple and Silver and Gold, there is no offence to Heaven in it; but for Poor People to do so, is insufferable Pride.

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He then preached particularly against the wearing of wigs, saying:

I doubt not but that a man who has lost his Hair by Sicknefs or by Age, or if his Health require it, may as lawfully make use of a modest Wig or Border, as of a Cap, or Hat. I never said or thought otherwise; but I have said, & do say, That fuch *Monstrous Periwigs*, as some; Nay, as some Church-Members indulge themselves in the wearing of, which make them refemble the Locusts that come out of the bottomless Pit; whose *Faces were as the Faces of Men, & they had Hair as the Hair of Women*, Rev. 9. 7, 8. are a Badge of Pride, and (as an Eminent Divine calls them) *Horrid Bushes of Vanity*; and that fuch *Strange apparel* is contrary to the light of Nature, and to Express Scripture.

But are not many among us guilty of this (as well as of other sorts of) Pride? And they regard neither God nor man that testifies against them. And none more guilty than the poorer and meaner sort of people all the Country over. They will go above their Quality, above their Parentage & above their Estates. When they have scarce Bread to eat, yet they will be fine and fashionable, and appear in their Silks and Braveries, as if they were the best in the Land. I declare unto you, that fuch Pride is enough to provoke the Lord to kindle Fires in all the Towns in the Country, where this Iniquity does abound.

Then he said:

Has not God's Holy Day been Prophaned in *New-England*? Has it not been so in *Boston* this Last Summer, more than ever since there was a Christian here? Have not Burdens been carried thro' the Streets on the Sabbath Day? Have not *Bakers, Carpenters* and other Tradefmen been employed in *Servile Works*, on the Sabbath Day? When I saw this . . . my Heart said, Will not the Lord for this Kindle a Fire in *Boston*?

When men pretend to Serve God, and yet Serve *Mammon* with their whole Hearts, the Lord either by Water or Fire takes away *their Mammon*. When the *World* is become an *Idol*, He casts it into the Fire. When an House & Furniture is *Idolized*, by Men or Women, the Jealousy of God Kindles a Fire on it. *Re-*

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member Lot's Wife: Her heart was Idolatroufly fet upon what she had in *Sodom*; and you know what befel her. Yea, remember *Lot* himself: Notwithstanding he was a *Righteous* man, the World had too much of his Heart. And did not God Fire him out of all his Estate? Now then say, Is not this Sin found in *New-England*? And is it not attended with much Sacriledge? Thro' out the whole Land, men with-hold from God more than is meet; and it tends to Poverty. *Ah! New-England*, what Lamentation shall I take up for thee? *Thou hast changed thy Interest*. Thy Interest was *Pure Religion*; which is more than can be said of any other Plantation in the whole World. Our Fathers came not into this Land to get Estates, but to Build Houses for God, & set up the Kingdom of CHRIST in the Spiritual Glory of it, where His Name had not been known. *They went after Him in the Wilderness, in a Land that was not Sown*: They sought the Kingdom of God & His Righteousness in the First place; and He was pleased to add other things to them, beyond their Expectation. But how is it at this Day? Men do not now come to *New-England* for the sake of Religion; but of the World, to get Riches if they can.

In conclusion he said, with a mixture of piety and prudence:

We ought to be affected with the Mercy of God in that the whole Town was not consumed. If the Wind (which the Lord holds in His fist) had then been so high as since that fatal night it has been, few Houses would have been left standing in *Boston*. We in this *North-End* of the Town, have great cause to acknowledge the Mercy of God in sparing us at this time: For indeed we were in eminent danger, flakes of fire falling upon the Houses hereabouts, & but few of the Dwellers in this part of the Town remained in their Houses to secure them, in case any of them should have taken fire; from which a gracious *Providence*, (but not our *Prudence*) has preserved them. Let me advise you, if ever the like occasion should happen, (which Mercy forbid) not to leave your own Habitations, without a sufficient Number to defend them.



Advice from TABERAH.

A SERMON

Preached
After the Terrible

FIRE,

Which, (attended with Some very
Lamentable and Memorable cir-
cumstances, On *Oct.* 2, 3. 1711.)

Laid a Considerable Part of BOSTON,
in Ashes.

Directing a Pious Improvement of
Every Calamity, but more Espe-
cially of so Calamitous a Desolation.

By COTTON MATHER, D.D.

Numb. XI. 3.

*And he called the Name of the Place TABERAH
because the Fire of the Lord burnt among them.*

BOSTON in N. E. Printed by B. Green;
Sold by Samuel Gerrish, at his Shop at the
Sign of the Buck over against the South
Meeting-House. 1711.

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Cotton Mather also preached a sermon in the South Meeting-house, which was printed, and but few copies of which still remain. The title-page is here reproduced. The sermon was preceded by the following statement as to the cause and extent of the fire:

THE OCCASION.

BEGINNING about Seven a Clock in the Evening, and Finishing before Two in the Morning, the Night between the *Second* and *Third* of *October*, 1711. A terrible FIRE Laid the Heart of BOSTON, the *Metropolis* of the *New-English America*, in Ashes. The Occasion of the *Fire*, is said to have been, by the Carelessness and Sottishness, of a Woman, who Suffered a Flame which took the Okum, the Picking whereof was her Business, to gain too far, before it could be mastered. It was not long before it reduced *Cornhill* into miserable Ruines, and it made its impressions into *King-Street*, and *Queen-Street*, and a great Part of *Pudding-Lane* was also Lost, before the Violence of it could be Conquered. Among these Ruines, there were Two Spacious *Edifices*, which until now, made a most Considerable Figure, because of the Publick Relation to our greatest Solemnities, in which they had stood from the Dayes of our Fathers. The One was, the TOWN-HOUSE: the Other, the OLD MEETING-HOUSE. The Number of Houses, and Some of them very Capacious Buildings, which went into the Fire, with these, is computed near about an hundred, and the *Families* which inhabited these Houses, cannot but be very many more. It being also a Place of much Trade, and fill'd with well-furnished Shops of Goods, not a little of the Wealth of the Town was now consumed. But that which very much added unto the Horror of the *Dismal Night*, was the Tragical *Death* of many Poor Men, who were killed, by the Blowing up of Houses; or by Venturing too far into the Fire, for the Rescue of what its fierce Jaws was ready to Prey upon. Of these, the Bones of Seven or Eight are thought to be found; and it is feared, there may be some Strangers, belonging to Vessels, besides these, thus buried, of whose unhappy circumstances we are not yet apprised: And others have since died of their Wounds.

The Story of the

Thus the Town of Boston, just going to get beyond *Fourscore* years of Age, and conflicting with much *Labour* and *Sorrow*, is, a very Vital and Valuable part of it, *Soon Cut off and flown away!*

And yet in the midst of these *Lamentations* we may say; *Tis of the Lords Mercies, that we are not Consumed.* Had not the Glorious Lord who has *gathered the Wind in His Hands*, Mercifully kept under the *Wind* at this Time, *He* alone knows how, much more of the Town must have been *Consumed!*

A Great Auditory of the Inhabitants, with many from the Neighbouring Towns, coming together, on the Ensuing *Thursday*, that they might hear the *Instructions of Piety*, which might suit the present & grievous Occasion: One of the Ministers, who is also a *Native*, of the Town, entertained them with the Ensuing *Sermon*, which is now by the way of the Press, made a more Durable and a more Diffusive MEMORIAL, of a Divine Dispensation, which may not quickly be Forgotten.

" No part of the structure of the Boston Town House now exists, no certain trace of its physical existence can be found, and only the mutilated walls of its successor—the Old State House—now stand as a part of the present edifice. The rude buildings in which the early Puritans lived and laboured about the Town House have all disappeared, and the conditions of life which existed about the building while it stood are all absolutely changed. The electric railway and the motor car have displaced the whipping-post and the stocks, and the quiet streets and places where Winthrop walked, and Mather talked, and Sewall gossiped, are filled with the throng and flow of commerce and of trade.

Of all that was material in the life of the Town House nothing now remains; but the results of what was done in and about the Town House remain. The government

Old Boston Town House

which the Puritans there created remains. The essential, fundamental principles of New England state government, as they now exist, were established and put in operation by the Puritans in the Boston Town House. Representative government by two legislative bodies, each a check upon the other, sound judicial power to interpret the law and determine rights under the law, and executive power effective to administer and execute the law, with a reasonable check upon hasty or ill-advised legislation, a system of government in which the powers of the people are so carefully distributed and balanced that "life, liberty and the pursuit of happiness" are made secure and the people protected against tyranny even by themselves,—all now exist as the result of what was done in and about the Boston Town House during the fifty years of its existence. When the Constitution of 1780 was established by the people of Massachusetts, they only declared by its Bill of Rights, and established by its provisions, the fundamental principles and methods of government which had been wrought out and established by the early Puritan settlers in the Boston Town House and in the Town of Boston and Colony of Massachusetts Bay.

This government has been permanent only because it is based upon moral principles, and the lesson which the story of the Boston Town House teaches is that while material things pass away, moral and spiritual things remain, and that only that righteousness which exalteth a nation is the safety and security of a sound and enduring state."

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THE following is a partial statement of punishments inflicted by orders of the Colony Courts, made from the "Massachusetts Colony Records," compiled by Nathaniel B. Shurtleff, and printed by order of the Legislature in 1858, and from the "Records of the Court of Assistants," compiled by John Noble, Clerk of the Supreme Judicial Court for Suffolk County, and printed by that county in 1908.

These records, however, are not complete, and the statement is therefore partial and illustrative only of the kind of punishments inflicted by those courts.

1680

It is ordered, that Beniamyn Cribb, John Cable, & Morris Trowent shalbe whipped for stealeing 3 piggs of M^r Ralfe Glouers./

It is ordered, that Philip Ratliffe shalbe whipped, haue his eares cutt of, fyned 40^l, & banished out of y^e lymitts of this iurisdiction, for vttering mallitious & scandulous speeches against the goūmt & the church of Salem, cc., as appeareth by a p̄ticular thereof, pued vpon oath./

It is ordered, that Philip Swaddon shalbe whipped for ruīing away from his maister, Robt Seely, intending to goe to Virginia.

It is ordered, that Henry Lyñ shalbe whipped and banished the plantacon before the 6th day of Octob^r nexte for writeing into England falsely & mallitiously against the goūmt & execucon of justice here./

1682

Tho: Knower was sett in the bilbowes for threateing the Court that, if hee should be punist, hee would haue it tryed in England whither hee was lawfully punished or not./

It is ordered, that Nicholas Frost, for thefte, drunkenes and fornicacon, shalbe fined, seuerely whiptt & branded in the hand

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with a hott iron, & after banished out of this pattent, with penalty that if euer hee be found within the lymitts of the said pattent, hee shalbe putt to death; also it is agreed that hee shalbe kept in boults, till his ffines be paid, dureing w^{ch} time hee is to beare his owne charges./

1633

John Sayles, being convicted of taking corn, fish and clapboards from divers persons, is thus censured by Court: All his estate shall be forfeited, double restitution made to those he has wronged, he shall be whipped and bound as a servant to any who will retain him for three yeares, afterwards to be disposed of by the Court.

1633

It is ordered, that William Dixon be set in the bilbowes for disordering himself with drink.

Whereas Beniamyn Felton hath brought into this Country one Robte Scarlett a knowen theife, whoe since his coming hither hath comitted dyvers felonyes as appeareth by his examinacon, It is therefore ordered that the said Scarlett shalbe seuerely whipt & branded in the forehead with a T & after sent to his said maister whome the Court enioynes to send the said Scarlett out of this Jurisdiccon, & in the meane tyme to be lyeable to satisfie for such damages, as his said serv^t shall doe to any pson, & also shall pay x^s to M^r. Stileman the Constable for his charges in keeping him & bringing of him to the Court./

1636

Thom: Pettet for suspition of slaunder, idlenes, & stubbornenes, is censured to bee severely whiped, & to bee kept in hould./

Alexander Waites ordered to be whipped for selling powder to the Indians./

Peter Bussaker censured for drunkennes to bee whiped, & to have twenty stripes sharply inflicted, & fined 5^s for sleiteing the magistrates &c./

Edward Woodley, for attempting a rape, swearing & breaking into a house, censured to be given 30 stripes, a yeares imprison-

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ment at hard labor, with course dyot and to wear a collar of yron.

Elisabeth Applegate censured to stand with her tongue in a cleft stick for swearing, raileing and revileing./

1687

William Brumfeild for stealeing, plotting to run from his m^r, lying, drunkennes & idlenes, was censured to make double restitution, bee branded & severely whiped./

George Spencer for receiving 6 sh^s from Brumfeild, censured to make double restitution & bee whiped./

George Barlow for his idlenes, censured to be whiped./

Luke Henberry for theft and running away, was censured to be severely whiped./

John Hathaway, Robert Allen & Margaret Seale, for adultery, ordered to be severely whiped and banished, never to return on penalty of death./

John Davies for grosse offences in attempting lewdness wth divers woemen, was censured to bee severely whiped, both heare & at Ipswich, & to weare the letter V vpon his breast vpon his vppermost garment vntill the Court do discharge him./

Edward Palmer for his extortion, takeing 1^l 13^s 7^d for the plank & woodwork of Boston stocks, is fined 5^l, & censured to bee set an houre in the stocks. This was remitted to 10^s./

Thomas Gray to be severely whiped and banished./

Katherine Finch for speaking against the magistrates, churches and elders, censured to be whiped and comitted till the Gene^rall Court; William South whiped and banished./

John Neale for ruⁿing away & stealing, was censured to bee severely whiped, & comitted to his master to bee kept chained./

John Kempe for immorality, censured to be whiped both heare, at Roxberry, & at Salem, and comitted for a slave to Lieft. Davenport./

Mathewe Edwards for improper conduct, censured to be whiped./

John Haslewood for theft and house-breaking, censured to be

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severely whiped and delivered vp a slave to whom the Court shall appoint./

William Androws for assault upon his master, Henry Coggan, and conspiring against his life, censured to bee severely whiped & delivered vp a slave to whom the Court shall appoint./

Gyles Player for theft and housebreaking; censured to bee severely whiped and delivered up for a slave to whom the Court shall appoint./

John Bickerstaffe and Ales Burwoode censured to be whiped for comitting fornication./

William Clarke censured to be severely whiped, comited to prison till the ship returne, and then to bee sent home, for thefts.

Anthony Robinson for fornication, censured to have 20 stripes sharply layed on, enioyned to appeare at the next Quarter Courte, & the meane while to bee of good behavio^r.

1639

Rich^d Joanes for his cheating, was censured to bee whiped, & put to the assigne of the party wronged, to make satisfaction for the money w^{ch} hee did receive, & hath spent./

Jane Robinson for disorder in her house, drunkennes, & light behavio^r, was censured to bee severely whiped./

Margeret Hindersam was censured to stand in the market place wth a paper the next market day, for her ill behavio^r, & her husband was bound in 5^l for her good behavio^r, & to bring her to the market place at the time appointed for her to stand there./

Thomas Dickerson was censured to bee severely whiped, & condemned to slavery./

Robert Penyar, for his vnclean attempt, & his flying when hee should have appeared, was censured to bee whiped./

1640

James Luxford for his forgery, lying, & other foule offences, was censured to bee bound to the whipping poast, till the lecture from the first bell, & after the lecture to have his eares cut of; & so hee had liberty to depart out of o^r iurisdiction.

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Hope, the Indian, was censured for her running away, & other misdemeanors, to be whiped here & at Marbleheade./

Jonathan Hatch was censured to be severely whiped, & for the present is committed for a slave to Lieft. Davenport./

John Burrows for going into other mens houses in the night & upon the Lords day in the time of exercise, was censured to be whiped./

John Knight for his drunkennes, swearing, & other disorder, was censured to be whiped./

John Dutton for swearing, stealing, & drunkennes, was censured to be severely whiped./

The iury found Hugh Buets to be guilty of heresy, & that his person & errors are dangerous for infection of others. It was ordered, that the said Hugh Buet should be gone out of our iurisdiction by the 24th present, upon paine of death, & not to returne, upon paine of being hanged./

1641

Rich^d Wilson for his grosse abuse of his m^r, Thom: Cheesholme, in base revileing speaches, & refusing to obey his lawfull commaunds, was censured to be severely whiped./

1641

James Laurence for goeing out of his m^r his house in the night unseasonably against his expresse order, was censured to be sharply whiped./

William Pilsberry for defileing his m^r his house, was censured to be whiped./

Dorothy Pilsberry was censured to be whiped for her uncleannes, and defileing her m^r his house./

Mary Osborne for her grosse miscarriage in giveing her husband quick silver, & other abuses, was censured to be severely whiped./

Thomas Owen for escaping out of prison, was fined 20^l, to be paid wthin a weeke, or to be severely whiped./

Sara Hales for escaping, to pay 13^l¹, or be whiped & banished./

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John Mussell for attempting to abuse a boy, was censured to bee whiped./

The wife of Rob^t Lewes for her dishonoring the name of god was censured to bee whiped.

Davy Hickbourne for his grosse misdemeano^r, & foule miscarriage was censured to bee severely whiped, to weare an iron coller till the co^t please, & serve his m^r 3 weekes longer for lost time, & trouble of his m^r.

1642

Peter Thatcher for plotting Piracy was comitted, & to bee whipt; Matthew Collaine, Robert Allen, & Marmaduke Barton, were whipped for concealing the plot of Piracy.

James Hawkins for prophaining the Sabbath hee was censured to bee whipt, & bound with his Brother Thomas Hawkins in 40^{lb}. to appeare at the Generall Co^t, and answer for venting his corrupt Opinions, & to bee of good behavio^r till then.

Elizabeth Sedgwicke for hir many theftes, & lyes, was censured to bee severely whipt, & condemned to slavery, till shee have recompenced double for all hir thefts.

T(eagu) Ocrimi was censured to bee carried to the place of execution, & there to stand with an halter about his necke, & to bee severely whipped.

Robert Wyar, & John Garland beeing indited for ravishing two yong girles, the Jury found them, not guilty of that offence, but the Co^t judged the boyes to bee openly whipped at Boston, the next market day, & againe to bee whipped at Cambridge on the Lecture day, & each of them to pay 5^{lb} a peece to their master in service. It was also judged that the two girls Sarah Wythes, & Ursula Odle bee severely whipped at Cambridge in the p^rsence of the Secretary.

Marmaduke Barton condemned to slavery, & to bee branded, & to remaine in slavery till the Co^t take further order about him./

Thom: Wendall for abusing a girle, was censured to bee whiped both heare & at Ipswich.

Thomas Briant for concealing Thatchers Plott, & consenting to it, was censured to bee severely whipped.

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John Woodcooke for his many miscarriages was censured to bee whipped.

Sarah Bell for hir theft, stealing money from hir master, censured to bee whipped, except shee behave hir selfe well betwixt this, & the next Co^t, & soe as the Co^t see cause to remit it.

Daniell Fairefeild was found guilty upon his own confession of having had carnal knowledge of a child of tender years, the daughter of Mr. Humfrey, one of the magistrates, and the Co^t therefore agreed that this aforementioned Dan: Fairefeild shalbee severely whiped at Boston the next lecture day, & have one of his nostrills slit so high as may well bee, & then to bee seared, & kept in prison, till hee bee fit to bee sent to Salem, & then to bee whiped againe, & have the other nostrill slit & seared; then further hee is confined to Boston neck, so as if hee bee found at any time dureing his life to go out of Boston neck, that is, beyond the railes toward Roxberry, or beyond the low water marke, hee shalbee put to death upon due conviction thereof; and hee is also to weare an hempen roape about his neck, the end of it hanging out two foote at least, & so often as hee shalbe found abroad wth-out it, hee shalbee whiped; & if hee shall at any time hereafter attempt to abuse any pson as formerly, hee shall be put to death, upon due conviction; & hee is to pay to M^r Humfrey forty pounds.

Jenken Davies, for the same offence, ordered to bee severely whiped at Boston on a lecture day, returned to prison till hee may bee sent to Linne, there to bee severely whiped also, & to be confined to the towne of Linne; if hee shall go out of the bounds of the towne, wthout license of Co^t hee shalbee put to death; & also to weare a hempen roape about his neck dureing the pleasure of the Co^t, and to bee whiped if found wthout it. If convicted of a similar attempt upon any child to be put to death. Also to pay forty pounds to Mr. Humfrey.

John Hudson for thesame offence ordered to bee severely whiped at Boston the next lecture day, returned to prison till sent to Salem, there to bee severely whiped againe, and to pay Mr. Humfrey twenty pounds wthin two yeares.

Davyd Conway, servant to W^m Beamsley, for resisting his master, was censured to be whipped.

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William Browne for running away, deriding an Ordinance of God, refusing to give account what hee had learned, & refusing to obey his master, was censured to be severely whipped.

Richard Quick for beeing distempered by drinking wine, & for his idlenes, stubbornes, & dalliance, was censured to bee whipped.

John Perry for running away was censured to bee whipped.

John Lewis for running away, and breaking an house, was censured to bee whipped, & sent home to his Master.

William Walcot was censured to bee whipped, & kept in Prison, till further Order, for his idlenesse, & abuse of his friends.

Anne Hett for attempting to drowne hir child was censured to bee whipped, and kept to hard labo^r & spare diet.

Thomas Cotcree was censured to bee severly whipped, for his vnmeet dalliance with two or three girles.

1643

Nathaniel Tappin, for breaking into severall houses, and stealing severall thinges was censured to be whipped, & put to Goodman Gillam.

Richard Gell, servant to ffrancis fellingham of Salem, for running away was censured to be whipped, & sent to his Master, whom hee is to serve for the time hee hath lost.

John Bartlet for his swearing, theft, & drunkenes, was comitted to Prison, & censured to bee whipped, & fined twenty shillings.

John Gammage for his swearing, drunkenes, & other prophanes, & disorder, was censured to bee well whipped.

Nicholas Rogers for his drunkenes, and makeing others drunke with his strong-water, was censured to bee whipped.

David Dauling, Mary Audley, & Jane Jeffrey, for their filthy, & vncleane practise, were censured to bee severly whipped.

David Williams for assaulting the watch was censured to be whipped at Braintree, and warrant to George Read, to stop out of the wages, to pay the witnesses.

Samuel Bacon for stealing wine, & other thinges, was cen-

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sured to be severely whipped, & to make double restitution, to M^{rs} Hull, & his Dame.

1673

Rebeckah Rogers sentenced to stand in the markett place on a stoole for one hower wth a paper on hir breast wth y^s Inscription THVS I STAND FOR MY ADVLTEROUVS AND WHORISH CARRIAGE and that on a lecture day nex^t after the lecture and then be seuerely whipt wth thirty stripes.

1674

Anna Negro Guilty of hauing a Bastard child & privately conveyed it away. The Court Considering of this virdict sentent the sajd Anna Negro to stand on the Gallowes wth a Roape fastened about hir necke to the Galloues for one hower and thence to be tyed to & whipt at the Carts Tayle to the prison wth thirty stripes & so comitted to the prison there to lye for one moneth and then to be Conveyed by the marshall Generall to charls-Towne & there on the lecture day to be alike tyed to & whipt wth thirty stripes & then on hir m^{rs} paying the charges of the tryall & prison she is dischargd.

1675

The Court Judged it meet to ffine Jacob Jesson the sume of tenn pounds mony for his Contemptuous Carriage in the Court in obstructing the eleven of the Jury dissenting from them from tjme to tjme & not Giving the Court a sattisfactory Reason.

Maurice Brett, sentent to be Carrjed from the prison to the Gallows & there wth a Roape about his necke to stand half an hower & thenc tjed to the Carts tajle & whipt seuerely wth thirty nine stripes and that he be banished this Jurisdiction & kept in prison till he be sent away paying the prison chardges.

At the same time Maurice Brett for his Contemptuous Carriage Confronting the sentenc of this Court was sentent to stand in the pillory on y^e morrow at one of y^e clock his eare nayld to y^e pillory & after an howrs standing there to be cut of & to pay twenty shilling for his swearing or be whipt wth ten stripes.

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Mary Gibbs, for adultery, punished with the same sentence as Maurice Brett with the exception of banishment.

1676

Thomas Daus indicted for adultery, found not guilty, but guilty of very suspicious acts, and the Court sentenced him to be Carrjed to the Gallows on the next Fiuth day after the lecture & there to stand on the Gallows wth a Roape about his necke one hower & tjed to the Gallows and thenc at the Carts tajle to be seuerely whipt not exceeding thirty nine stripes to the prison & there to lye till the nex^t lecture day at Charls Toune & carried then thith^r & be there alike seuerely whip^t not exceeding thirty stripes & discharging his prison ffees to be discharged.

Elisabeth Broune was sentenced to be Conducted to the Gallows & by the executioner to haue a Rope tied about her neck to y^e Gallow^s & so there to stand one howe^r & thenc to be tyed to the Carts tayle & seuerely whipped not exceeding thirty nine stripes to the prison & thr left till the next lecture day at CharlsToune & then Carrjed ouer & be there alike seuerely whipt wth thirty stripes & discharging her prison ffees to be discharged.

Peter Cole and Sarah Bucknam were sentenced to be on the nex^t fifth day after lecture Carried to the Gallow^s and there to stand wth a halte^r throune ouer y^e Gallow^{es} on howe^r & then tooke doune tyed to the Cart^s tajle & be seuerely whipt wth thirty-nine stripes, and paying their prison ffees to be discharged.

1677

Darby Bryan was sentenced to be taken from the prison to the Gallowes presently after the lecture in Boston & there to stand wth a Roape about his necke & fastned thereto one howe^r & then taken doune & tyed to a Carts Tayle and at Left ffrary^s doore stripped from the Girdle vpwards on his naked body to be whipped thence to the prison wth thirty nine stripe^s well layd on & there left till he discharge the chardge of prosecution.

Abigaile Johnson, for an offence with Darby Bryan, was ad-

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judged to suffer in all respects in like manner as above in Darby Bryan's sentence.

Ephraim Beamis was sentenced to be Carried to the Gallows & there Caused to stand wth a Roape about his neck fastned there- to for one howe^r and then taken doune and tyed to y^e Carts tayle & at Leiftenn^t Frary^s to be stripped from the Girdle vpwards: & then Cause the executione^r to whip him thence to the prison wth thirty nine stripes on his naked body & there leaue him in prison till he discharges the charge of his prosecution & pays fees of Court.

1678

Alexande^r Colman being Complayned on for his endeavoring to make disturbance of the people in time of publick worship on the last Lords day in the 3^d meeting house in Boston by Going in wth only a dirty frock of Canvice all bloody & no othe^r cloaths y^e Constable hauing Carried him to prison he was sent for & being demanded whenc he came he Came from neuis the last place being Askt why he endeavored to make disturbance to the people of God on y^e Lords day while they were in the publick worship of God The Court Considering yo^r offence sentenc^t yow to be whipt wth 15 stripes on y^e naked bod[y] well lajd on & by y^e constable to be sent out of Toune putting on his frock.

Ellino^r May was sentencd to be tyed to a Carts Tayle & whipt vpon hir naked body from the Prisson to the place of hir aboad not exceeding thirty nine stripes well & seuerely layd on, and also to depart out of the Toune of Boston wth in tenn dayes nex^t Comeing after hir Correction and no^t to returne againe wthout licence from the Gouno^r or two magistrates vnde^r his or their hands in writting and in Case after that time the sajd Elljnor may shall be found in Boston or any of the precincts thereof Contrary to this Order she shall be App^rhended by the Constable on notice given by any of the Inhabitants of the sajd Toune & Comitted to Bridewell there to remajne vntill the Councill or Court of Assistants shall Give furthe^r orde^r Concerning her: she dischargng fees of Court & Costs of witnesses to be dischargd.

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1679

Peeter Lorphelin ffrenchman, for the offence of clipping money, was sentenced to stand vpon the pillory two howers & then to haue both eares cut off by the executioner and give bond in fiue hundred pounds for future good conduct.

1681

George Fairfax for burglary on the Lord's Day, was sentenced to be branded in the forehead wth the letter B, and to be seuerely whipt wth thirty stripes, paying trble damages for the property stolen, and to discharge the fees of Court.

1683

Leonard Pomery found guilty of manslaughter and sentenced to be burnt in the hand & forfeit his Good^s & chattels none to be found y^e executioner executed the sentenc in y^e face of the Court.

Joshua Rice, for adultery, sentenced on the "nex^t fifth day of y^e weeke presently after the lecture to be by y^e marshall Generall to be taken out of y^e prison & wth a Roape ab^t your necke Conveyed thro the Towne to the Gallowes & there to be sett on a ladder & stand on full howe^r wth yo^r Roap turnd ouer the Gallowes & then to be taken doune & Conveyed to the begining of the street entring the Towne to be strip^t & tjed to the Carts Tayle & be seuerely whipt^t wth thirty stripes thro the streets to the Goale & be there left till yow discharge the charg of yo^r trjall prison & Court ffees, wch when down to be releast from prison the like sentenc was passed & published in Court in all respects against & to Elisabeth Crocket wife to Crocke^t partne^r wth him in their odious vile & lustfull carriages."

1684

Phillip Darland for adultery, was sentenced to be returned to prison & from thenc on y^e morrow p^rsently after the lecture to be taken thence by the marshall General wth a Guard & Conveyed to y^e place of execution & ther caused to stand on howe^r wth a Rope about his neck Cast ouer the Gallowes & thenc to be taken doune & fastned to the Carts tayle & whipt seuerely on his

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naked ha[c]ke to the prison againe not exceeding forty stripes & there left till the chardge of his Tryall & wittnesses wth fees of Court be dischargd.

Mary Knights for adultery with Phillip Darland, was sentenc^t in all respec^t as Phillip Darland as aboue, wch sentenc was executed & they Returnd to Prison.

Joseph Gatchell for blasphemy, sentenced to be placed in the pillory to haue his head & hand put in & haue his tounge drawne forth out of his mouth & peirct through wth a hott Iron & then to be returnd to the prison there to Remajne vntill he sattisfy & pay all y^e charges of his tryall & fees of Court . . . The marshall Genril taking necessary help wth him is to see y^e execution of y^e sentenc pformed.

1685

Vriah Cloemen^ts (calling himself John Ball) found guilty of burglary and sentenced to be branded wth the letter B on y^e forehead & haue his Right eare Cutt of discharging y^e charge of y^e wittnesses tryall & fees & then make treble Restitution to the party Injured & in deffect thereof to be sold to any of the English plantations.

Sentenced a second time to be Againe Branded with the letter B on his forehead & haue his left eare Cutt of, &c.

1691

Hannah Owen and Josiah Owen were committed to prison because she was Josiah Owen's brother's relict and the marriage was declared void, and she was required to make publick acknowledgement of her sin & evil before the Congregation at Braintree on their Lecture day, or on the Lord's day.

Whipping was in those days also the usual method of correction in schools and even in colleges and universities. Sewall notes such a punishment in Harvard College in 1684. Thomas Sargeant was examined by the Corporation; finally, the advice of Mr. Danforth, Mr. Stoughton, Mr. Thatcher, Mr. Mather (then present) was taken. This was his sentence:

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That being convicted of speaking blasphemous words concerning the H. G. he should be therefore publicly whipped before all the Scholars. 2. That he should be suspended as to taking his degree of Bachelour (this sentence read before him twice at the Pr^{ts}. before the committee, and in the library 1 up before execution). 3. Sit alone by himself in the Hall uncovered at meals, during the pleasure of the President and Fellows, and be in all things obedient, doing what exercise was appointed him by the President, or else be finally expelled the Colledge. The first was presently put in execution in the Library (Mr. Danforth Jr. being present) before the Scholars. He kneeled down and the instrument Goodman Hely attended the President's word as to the performance of his part in the work. Prayer was had before and after by the President.

This, however, was only following the practice in England. Rashdall, in "Universities of Europe in the Middle Ages" (vol. ii. pp. 622, 623), says: "The prolongation of the whipping age to the verge of manhood is perhaps peculiar to the English Universities. . . . The Statutes of Brasenose—founded in 1509—are the first which exhibit the undergraduate completely stripped of his medieval dignity, tamed, and reduced to the schoolboy level, from which he did not begin to emerge again till towards the close of the seventeenth century. Here he is subjected to the birch at the discretion of the College Lecturer for unprepared lessons, playing, laughing or talking in lecture, making 'odious comparisons,' &c."

In the Chapter Book of Christ College, Oxford, for 1650, we find this entry: "It is ordered by the Dean and Chapter that Devoye, for divers gross and scandalous acts, shall be publicly whipped in the house, and afterwards sent home to his Father for a twelve months, and not to return then without a testimonial of his civil and orderly carriage during the time of his absence."

In the College Order Book of Corpus Christi, Cambridge, under date of May 22, 1648, is the following: "Johannes Starke de malis moribus collegio amovendus. Item Benton qui ab eo seductus est per tutorem suum M^{rum} Johnson virgis castigandus."

In 1650 Henry Stubbe, a Westminster student, then nineteen years old, was convicted of abusing the Censor morum, and "for

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so doing and his impudence in other respects whipped by him in the Public Refectory.”*

Bathurst, president of Trinity College, Cambridge, who died in 1704, at the age of eighty-four, “delighted to surprise the scholars when walking in the grove at unseasonable hours, on which occasion he frequently carried a whip in his hand, an instrument of academical correction then not entirely laid aside. But this he practised on account of the pleasure he took in giving so odd an alarm, rather than from any principle of approving, or intention of applying so illiberal punishment.”†

In the records of the early days of Trinity College, Dublin (at the beginning of the seventeenth century), we find that the students were punished for the following offences: “(1) lodging in town; (2) resorting to ale-houses (for this offence they were punished with the rod); (3) absence from catechizing and sermon; (4) omitting declamations; (5) playing at cards in the porter’s lodging in the steeple; (6) climbing the college walls; (7) a public whipping, at the hour of corrections, for breaking the provost’s windows; (8) student fined 25*s.* for stealing a hogshead of the provost’s strong beer, through Sir Wilson’s study wall being broken; (9) made to sit in the stocks at supper-time for fighting with weapons; (10) a master of arts was expelled for having a bastard of a wicked woman at Finglas.”‡

* *Life of Henry Stubbs*, by Wood.

† *Life of Bathurst*, by Warton.

‡ *History of the University of Dublin*, p. 26, J. W. Stubbs.

Reference Tables

A few of the dates necessary for locating the events of the period under consideration are here given for convenience of reference.

SUCCESSION OF ENGLISH SOVEREIGNS

CHARLES I., 1625-1649.

Commonwealth under Cromwell, 1649-1659.

CHARLES II., 1660-1685

(Proclaimed in Boston August 8, 1661.)

JAMES II., 1685-1688.

WILLIAM AND MARY, February 16, 1689-1702

(Proclaimed in Boston, May 29, 1689. MARY died in 1694.)

ANNE, 1702-1714.

DATES OF CHARTERS

FIRST CHARTER granted to the Governor and company of the Massachusetts Bay in New England, March 4, 1629. This Charter was vacated, June 18, 1684.

SECOND CHARTER granted to the province of the Massachusetts Bay in New England, October 7, 1691.

SUCCESSION OF GOVERNORS

Under the Charter of 1629.

JOHN ENDICOTT, 1655-1665.

RICHARD BELLINGHAM, 1665-1672.

JOHN LEVERETT, 1672-1679.

SIMON BRADSTREET, 1679-1686.

After Revocation of Charter of 1629.

JOSEPH DUDLEY, under title of *President of New England*, May, 1686-December, 1686.

EDMUND ANDROS, under title of *Governor of New England*, December, 1686-April, 1689.

SIMON BRADSTREET, under title of *President of the Council of Safety and Conservation of the Peace*, 1689-1692.

Under Charter of 1691.

WILLIAM PHIPS, 1692-1694.

WILLIAM STOUGHTON (*Acting Governor*), 1694-1699.

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RICHARD COOTE, Earl of Bellomont, May, 1699–July, 1700.

WILLIAM STOUGHTON (*Acting Governor*), July, 1700–July, 1701.

The Council without Governor, July, 1701–June, 1702.

JOSEPH DUDLEY, 1702-1714.

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